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CHARTING THE FUTURE  
.....  
OF IOWA'S COURTS

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REPORT OF THE  
IOWA SUPREME COURT  
COMMISSION ON PLANNING  
FOR THE 21ST CENTURY



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## REPORT OF THE IOWA SUPREME COURT COMMISSION ON PLANNING FOR THE 21ST CENTURY

JUNE 1996

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June 12, 1996

To the Chief Justice and Members of the Iowa Supreme Court:

Your Commission on Planning for the 21st Century is pleased to present the following report outlining our vision for the future of the judicial branch in Iowa.

In your charge to the Commission, you asked that we develop a long-range plan that would do three things: clearly articulate the mission of the Iowa judiciary, assess the courts' capacity for providing services, and propose strategies aimed at delivering the highest quality of justice to the citizens of Iowa. We chose to accomplish these tasks by means of a "visioning" process.

First we studied, and attempted to articulate, the principles that have guided and grounded the judicial branch since its founding. We then examined how business is currently conducted in the courts throughout our state. Through on-site visits, personal interviews, surveys, group discussion, public hearings, and statistical analysis, we sought to understand the strengths and weaknesses of the system as it exists. We then went about the hard work of visualizing an ideal judicial branch for the year 2020, and the even harder work of proposing realistic ways to achieve that vision in harmony with our core values.

By its very nature, the report we submit is at once idealistic and realistic in tone. Its realism reflects the diverse backgrounds represented in the commission you appointed—farmers, lawyers, health professionals, community activists, teachers, clerks, judges, and business people. The report's idealism stems from the commissioners' shared belief that the judicial branch, co-equal and independent, must command the respect and support of every citizen if it is to maintain its vital role in our democracy into the 21st Century and beyond.

We extend our thanks to you for challenging us to face the future; to the public and private organizations and individuals who gave us the resources to pursue our mission with zeal; to the citizens whose care and concern for justice inspired our work; and to all those who are willing to embark on the course we have charted.

*Linda K. Neuman*

Justice Linda K. Neuman  
Commission Chair

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# Introduction and Overview

## THE CHALLENGE OF CHANGE

**A**s we approach the beginning of the 21st Century, Iowa's courts stand at a crossroads. Behind them lies a rich and distinguished past, marked by a tradition of innovation and service to the people of Iowa. Surrounding them is a host of contemporary issues—escalating court caseloads, inadequate facilities, uncertain funding—and the new pressures these concerns have placed on judges, court administrators and employees. Ahead looms a highly uncertain future—at once, both challenging and foreboding.

"The art of progress is to preserve order amid change, change amid order."

—Alfred North Whitehead

Amid headlines dominated by a rapidly changing population, economic restructuring, technological advances, and new social concerns, scholars and futurists agree that our society is entering a fundamentally new era in its history. The American justice system is deeply implicated in this environment of accelerated change—and Iowa's courts are no exception. Perhaps the greatest challenge facing the future of our courts is to maintain a sense of purpose and direction in the midst of such turbulence. It is for this reason that the Iowa Supreme Court Commission on Planning for the 21st Century was formed.

## COMMISSION FORMATION AND STRUCTURE

First established in August 1994, the Commission on Planning for the 21st Century was charged with assembling citizens from both the public and private sectors to bring their knowledge, expertise and insights to bear upon the subject of the future of Iowa's courts in order to ensure the continued delivery of equal, affordable and accessible justice to all Iowans. Its specific mission was to develop a long-range plan that would:

- clearly articulate the court system's mission;
- assess its capacity for providing services; and
- propose an enduring, future-oriented service strategy that would deliver the highest quality of justice to the citizens of Iowa.

To oversee this mission, the Supreme Court appointed a Steering Committee of twelve members representing the courts, the bar, the Legislature, business and industry, labor, and low income Iowans. Committee activities were guided by a designated chair, staffed by a full-time project director, and advised by a long-range planning consultant funded, in part, through a grant from the State Justice Institute.

The project could not have been completed without seed money from the Iowa Legislature. In the spirit of its public/private roots, however, a majority of the Commission's budget was raised through the contributions of private businesses and corporations, professional organizations and individual citizens throughout the state. Numerous in-kind contributions of facilities and services were also made by other organizations and individuals, including the Iowa Judicial Branch.

### Members of the Steering Committee

Chair:  
Linda K. Neuman

David D. Beckman  
Rebecca Colton  
Mark Haverland  
Ted M. Hutchison  
Dwight W. James  
Mary Kramer\*  
William J. O'Brien\*  
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Thomas N. Urban\*

\*until May 1995

Ultimately, the Steering Committee convened a broadly representative group of 60 citizens to undertake the actual work of the Commission. This group was specifically directed to:

- examine social, economic, political and technological trends;
- identify current and future issues confronting the courts; and
- assess the resources needed to establish a foundation for strategic management and organizational innovation.

Based on its findings, the Steering Committee was to develop a long-range plan for the Judicial Branch and to report its findings and recommendations to the Supreme Court in June 1996.

## MAJOR COMMISSION ACTIVITIES

In order to launch this ambitious undertaking, the Commission initially divided into five separate subcommittees or "teams," each chaired by members of the Steering Committee. Individual teams were directed to investigate five specific target areas of concern regarding the future of the courts:

- Delivery of Justice: Access and Quality
- Administration
- Technology
- Funding
- Planning and Public Education

The time frame for team investigations extended from the present to the year 2020. This 25-year period was considered to be consistent with the purpose and functions of a long-range plan: to provide an overall direction and long-term goals for attainment by the court system.

At the same time, the Steering Committee acknowledged that strategic action plans encompassing a much shorter time frame (e.g., 1-5 years) would ultimately need to be developed in order to realize the longer-term directions charted by the Commission. Such strategic plans were seen as the purview of

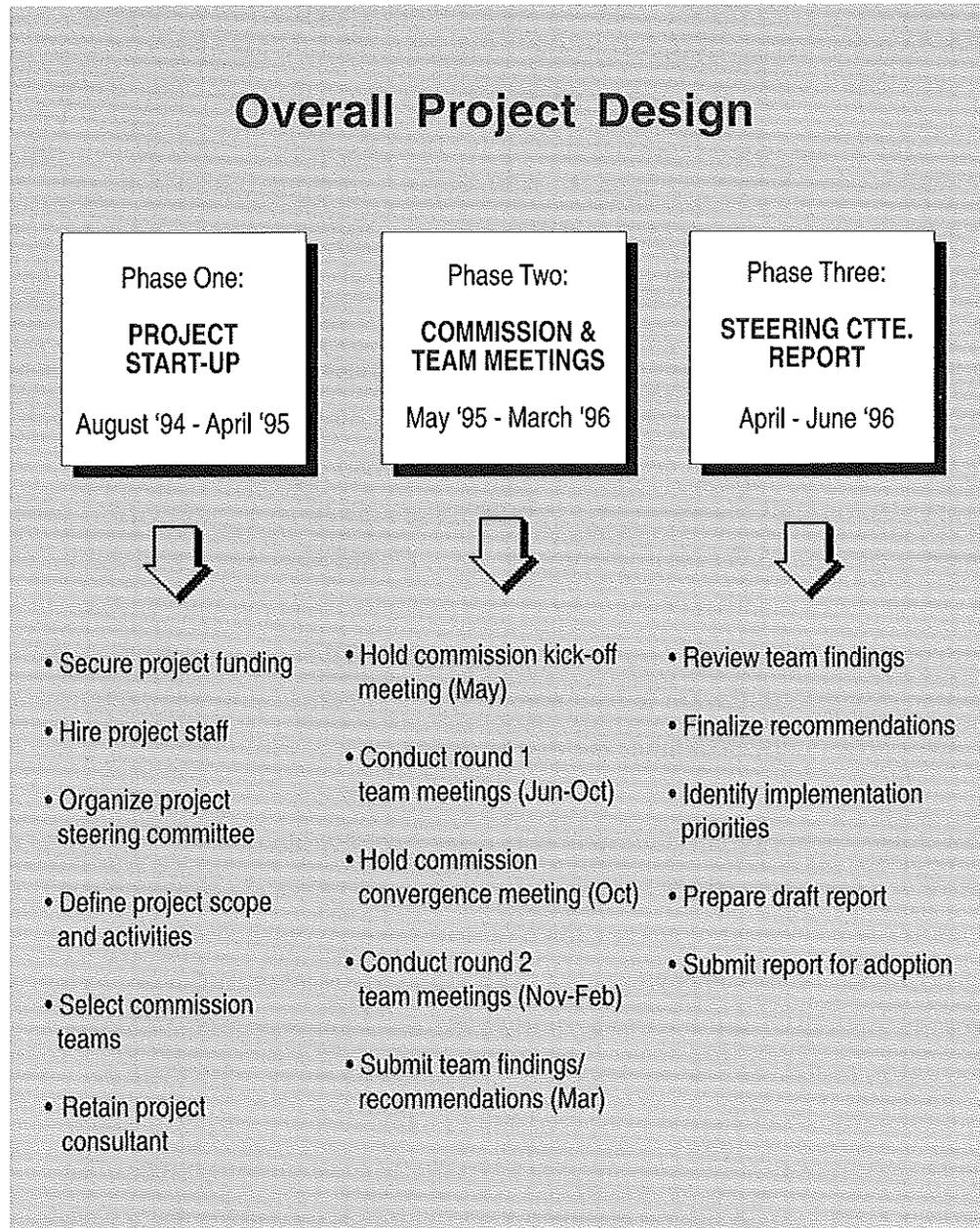
the Supreme Court and Judicial Branch, but were specifically addressed in recommendations developed by the Planning and Public Education team. (See Chapter Nine).

Over the course of the next year, the Commission engaged in an elaborate participatory process designed to chart a preferred future for Iowa's courts. In May 1995, a kick-off conference was held at Iowa State University, featuring presentations by the Chief Justice, Iowa Judicial Branch personnel, and an internationally recognized futurist. At this event, the full Commission was briefed on the importance of its mission, the state of Iowa's courts, and the considerable challenges facing us.

Following this event, Commission teams launched separate but parallel planning efforts. Meeting monthly, each team considered Iowa's court history, analyzed current court conditions, identified emerging trends and issues, explored future scenarios, and ultimately drafted a preliminary vision and recommendations for its respective area. During the course of these meetings, team members visited local courthouses across the state to meet with judges, court administrators and employees. These encounters added a human dimension to team investigations and impressed upon them the reality of the many challenges facing the courts.

In October 1995, Commission members came together again for a "convergence" conference to share their findings to date. In a series of intensive sessions over the next two days, the five teams presented their draft visions and recommendations, participated in an interactive vision forum involving cross-team polling and feedback, revised their recommendations based on this input, and met again to share their proposed revisions with the full Commission. In addition to these activities, a panel of experts from other court systems around the country reviewed team findings and offered suggestions based on their own planning experiences. Computers and technology, too, played a role in the conference, as Commission members viewed information on state-of-the-art court technology applications and explored information on court futures via the Internet.

## Overall Project Design



## **PUBLIC INVOLVEMENT FORUMS**

Following the conference, Commission teams met individually over the next five months to refine their findings and recommendations, and to consider additional information collected by the Commission. During this period, the Commission designed and implemented three distinct types of participatory “forums” to solicit information, ideas and feedback from the public-at-large and specific court “stakeholder” groups.

- In January 1996, the Commission released the results of an extensive public opinion survey. Conducted on behalf of the Commission by the University of Iowa Social Science Institute, this scientific survey based on a random sample of more than 800 Iowans provided highly reliable indicators of the general public’s knowledge, experience and opinions regarding the courts. The survey results were both reassuring and provocative. (See Chapter Three.)
- In January and February, the Commission conducted a series of professionally facilitated “focus groups” for key court stakeholder groups, including judges, juvenile court officers, state and district court administrative staff, clerks of court, court reporters, and attorneys. These sessions, held throughout the state, provided specific insights into the concerns of court stakeholders regarding current court and justice system conditions, as well as their hopes for the future. (See Chapter Three.)
- In April the Commission conducted six public hearings in strategic locations across Iowa for members of the public-at-large to share concerns, ideas and suggestions they might have regarding the future of Iowa’s courts. Though attendance was somewhat limited, the thoughtfulness and personal involvement of the people testifying was impressive, even moving. (See Chapter Three.)

The results of these forums provided additional information to augment the Commission’s own investigations and findings. Results were considered by

individual teams and the Steering Committee and shared with other court groups, including the Supreme Court and Judicial Council.

## COMMISSION REPORT

By March of 1996, the draft visions and recommendations of the five Commission teams, along with related information, were submitted to the Steering Committee for its final review and consideration. What followed was a lengthy and painstakingly careful process of reconciliation and refinement to produce a final slate of recommendations for submission to the Supreme Court. This report includes a complete summary of those findings. (See Chapters Five through Nine.)

In addition to visions and recommendations, each team report includes in-depth “rationale statements” for every recommendation, as well as implementation priority ratings and related recommendations of other teams. Implementation priorities are defined as the time frame during which implementation of a particular recommendation would commence—and potentially but not necessarily—be completed. The base date for the Commission’s overall implementation time frame is July 1, 1996. Five categories of possible implementation priorities are included:

- Ongoing (recommendations already under implementation in some form)
- Short-term (1-2 year implementation time frame, beginning July 1, 1996)
- Medium-term (3-5 year implementation time frame, beginning July 1, 1998)
- Long-term (6+ year implementation time frame, beginning July 1, 2001)
- Short/medium/long-term (beginning immediately and continuing indefinitely).

Each team report also includes examples of specific initiatives already underway in Iowa’s courts, called “Success Stories,” considered to be highly compatible with that team’s recommendations.

The Commission wishes to emphasize that its five visions and accompanying recommendations do not purport to cover the entire breadth and depth of possible issues or concerns facing the future of Iowa's courts. There are a number of reasons for this.

To begin, the future is a vast, dynamic and unpredictable domain. It is virtually impossible to know all of the emerging issues or concerns that may confront the courts five, ten or 25 years down the road. That is precisely why an entire section of the Commission's recommendations is focused on establishing an ongoing planning function within the Judicial Branch. (See Chapter Nine.) Planning for the future can and must be an ongoing—as opposed to one-time—activity. The findings of this Commission are seen as just the beginning of planning for the future of the courts.

At the other end of the spectrum are those issues or concerns that are highly immediate in their impact. Focusing the Commission's recommendations on such issues would be to deny its mission and charge. To the extent that an issue facing the courts is a matter of urgency or even crisis, it necessarily lies beyond the scope of this report.

Finally, and somewhere in between, are those issues that may have long-term implications for the courts but which, in themselves, are already the subject of discrete studies or investigations. The Supreme Court has engaged a number of formal task forces or committees to explore contemporary issues facing the courts—such as domestic violence, gender/racial bias, and child welfare—and to make recommendations for change. Out of respect for such efforts, the Commission has largely left these subjects to the findings and recommendations of those respective groups.

## NEXT STEPS

Throughout the Commission's tenure and underlying all its work has been a concern for the issue of "follow-up." The visions and recommendations contained in this report represent the ideals and proposals of hundreds of Iowans—Commission members and court personnel among them—who shared their thoughts and concerns in the hope that someone would listen and take action. As the Commission disbands, it is mindful of the risk that its recommendations may go partially or wholly unrealized. Yet the Commission is certain this is not an outcome envisioned, or desired by, the Iowa Supreme Court.

Many of the recommendations contained in this report call for updated technology, organizational change, new procedural rules and—occasionally—statutory revision. Although the ultimate responsibility for implementing these recommendations will rest with the Supreme Court, members of the Commission stand ready to help forge new alliances, and strengthen existing ones, in the interest of securing the visions expressed in the report. The Planning and Public Education Team specifically recommended that the Court form a Planning Advisory Committee to provide leadership and expertise to support the Court's ongoing planning efforts. (See Chapter Nine.) To the extent the committee is drawn from members of this Commission, continuity of purpose and direction will be ensured.

## SUMMARY

For the members of the Commission on Planning for the 21st Century, envisioning the future of justice in Iowa has been a revealing, even transforming experience. Never before has the Iowa Judicial Branch embarked on such a far-sighted planning process—nor one that has so openly invited the ideas and concerns of the people of this state. While this effort has been long and involved, it is clearly just the beginning of what promises to become an ongoing system of anticipating and planning for change. The next step—turning these visions and recommendations into reality—will most certainly require further collaboration, persistence and resolve.

In the meantime, this report exists to provide inspiration and guidance for the long-term future of Iowa's courts. While it was never intended to dictate specific strategies for change or authorize immediate courses of action, it will certainly be available to inform and strengthen the planning, budgeting and legislative activities of the courts as they—indeed the entire Judicial Branch—move into a dynamic and changing future.



# Historical Profile of Iowa's Courts

**A**s the Commission for Planning on the 21st Century embarked on a comprehensive study of Iowa's court system, its 72 members met for the first time at a two-day conference held at Iowa State University. The centerpiece of the event was a thought-provoking and challenging presentation by Dr. James Dator, professor of political science, director of the Hawaii Research Center for Futures Studies at the University of Hawaii, and a consultant to national court-related organizations.

In a somewhat surprising observation, Dator asserted that the "personnel, intellect and concern" of state court systems make them more able and inclined than other institutions to think creatively about the future. The first step in that process, Dator said, is to look to the past:

It's very important to have a clear understanding of the history of the court system. To say it needs to be changed is not to condemn it or deny its nobility or the good intentions of those who established it. It is to say that that was then, this is now, and what about tomorrow? If you have a good understanding of the past, you invariably see that it was someone's brilliant vision of the future.

As the Commission looked back over the 158-year history of Iowa's Judicial Branch, it saw an institution guided by core values of fairness, integrity and quality. In early cases involving fundamental human rights, Iowa's courts demonstrated legal foresight, courage and common sense. (See "Iowa's Pioneering Cases" in this chapter.) To examine this history is to understand the implicit vision that has, from the very beginning, guided the courts of this state.

## **TERRITORIAL GOVERNMENT**

Congress enacted legislation in 1838 that formed the Territorial Government of Iowa, dividing it from the Territory of Wisconsin. The Act vested executive power in a governor, provided for a legislative assembly, and established a judiciary that consisted of a supreme court, district courts, probate courts, and justices of the peace.

The first Iowa Supreme Court consisted of a chief justice and two associate justices who served four-year terms and were appointed by the president of the United States. The three justices of the Supreme Court, who held court annually, also served as district (trial court) judges. The Territory of Iowa was divided into three judicial districts, with one Supreme Court justice residing in each district. Each judicial district also employed justices of the peace having general jurisdiction except in boundary disputes or when the sum in controversy exceeded fifty dollars.

Congress vested the territorial courts with the same jurisdiction in all cases arising under the Constitution and laws of the United States as exercised by federal courts. Hence, the Iowa territorial district courts reserved the first six days of every term for trial of issues arising under the Constitution and federal law. Writs of error and appeals from final decisions of the district courts were made to the Supreme Court of the Iowa Territory. When the amount in controversy exceeded one thousand dollars, writs of error and appeals from final decisions of the Territory's Supreme Court were taken to the U.S. Supreme Court.

## **STATEHOOD**

Iowa joined the Union as the twenty-ninth state in 1846. The Iowa Constitution of 1846 divided the powers of the state government into three separate "departments"—the legislative, the executive and the judicial. The 1846 Constitution vested judicial power in a supreme court, four district courts, and such other inferior courts as established by both houses of the state's General Assembly.

Under the Constitution of 1846, the Iowa Supreme Court consisted of a chief justice and two associate justices who were elected to six-year terms by a joint vote of both houses of the General Assembly. While serving on the Supreme Court, justices were ineligible to hold any other office. Supreme Court justices were given supervisory control over all lower judicial tribunals in the state and were entrusted with conserving the peace throughout the state.

During the first legislative session held in the new state, the General Assembly divided the state into four judicial districts. District courts judges were popularly elected to five-year terms by voters of the district in which they resided.

### **Iowa's Pioneering Cases: A Rich History of Protecting Human Liberties**

Iowa's first reported case, **In the Matter of Ralph (a Colored Man) (1839)**, concerned a slave who moved to Iowa to work in the Dubuque lead mines, but failed to pay his owner, as promised, \$500 plus interest for his freedom. The Iowa Supreme Court found that Ralph should pay his debt but, for the nonpayment, "no man in this territory can be reduced to slavery." The court rejected the argument that Ralph was a fugitive slave, reasoning that by allowing him to leave Missouri and reside in a free state, the master could no longer exercise any right of ownership over him in this territory.

The **Ralph** decision provided important precedent for Justice Benjamin R. Curtis's dissent in the *Dredd Scott* case decided 18 years later by the U.S. Supreme Court. Again, the issue was whether a slave became free by residing in a free territory—a question not settled until the Civil War.

**Clark v. The Board of Directors (1868)**, involving a 12-year-old girl denied admission to her neighborhood school, concerned the issue of whether a school's board of directors could "require colored children to attend a separate school." The Iowa Supreme Court examined legislative sentiment on the subject and held in favor of equal access to public schools, regardless of race or nationality. To do otherwise, the court held, would violate the spirit of our laws and perpetuate unnecessary racial strife.

At the federal level, the concept of "separate but equal" was not struck down until *Brown v. Board of Education*, nearly a century later.

**Coger v. The North Western Union Packet Co. (1873)** centered on the denial of first-class accommodations and meals to a woman of partial African descent traveling on a Mississippi steamer from Keokuk to Quincy, Illinois. Although a fellow passenger purchased Coger an unrestricted meal ticket, she was forcibly removed from the dining cabin. The Iowa Supreme Court ruled without regard to the ancestry of the "blood that flowed in her veins," holding that Coger was entitled to the same rights and privileges possessed and exercised by white passengers.

The same conclusion was not reached by the U.S. Supreme Court until *Heart of Atlanta Motel, Inc. v. United States*, a case that followed passage of the 1964 Civil Rights Act.

## **CONSTITUTION OF 1857**

The Iowa Constitution of 1857 endures to the present day, securing for the citizens of Iowa a free and independent government. Consistent with the constitution it replaced, judicial power was vested in a supreme court, district courts, and such lower courts as established by the General Assembly. As more of the state was settled and new counties were formed, the need for additional judicial districts grew. In 1857 the number of judicial districts increased from four to eleven, with a provision that allowed the General Assembly to reorganize the districts after 1860 and every four years thereafter.

A new provision in the 1857 Constitution provided for statewide, popular election of Supreme Court justices to staggered, six-year terms, with one judge elected every two years. The three justices of the Supreme Court shared the responsibility of presiding as chief justice by serving six-month terms on a rotating basis.

## **TWENTIETH-CENTURY REFORMS**

Over the next 100 years, few major changes occurred in Iowa's Judicial Branch. Beginning in the 1970s, however, the U.S. Supreme Court, under the leadership of Chief Justice Warren E. Burger, initiated efforts at the national level to improve administration of the federal courts. Like many states, Iowa responded by instituting reforms of its own. The next 20 years would see structural and administrative changes designed to modernize and professionalize the state's Judicial Branch.

### **Merit Selection of Judges (1962)**

The first major change actually occurred in 1962 when, in order to remove partisan politics from judicial selection and promote professional qualifications among judge candidates, Iowa established a merit selection system for appellate judges and general jurisdiction (district court) judges. Under the system, the State Judicial Nominating Commission selects nominees for the

Supreme Court and Court of Appeals; District Nominating Commissions, one for each judicial election subdistrict, select nominees for district court judgeships. Appointees are chosen by the Governor from a list of finalists submitted by the commissions.

The commissions are nonpartisan bodies composed of lawyers elected by their colleagues and lay members appointed by the Governor. Membership is, by law, gender balanced. The senior justice of the Supreme Court serves as chair of the state commission. For purposes of nomination and appointment of district judges, five of the eight judicial districts have been subdivided, resulting in a total of 14 judicial election districts; the commission for each is chaired by its senior judge. Iowa was the second state in the nation to adopt judicial merit selection.

#### **Establishment of State Court Administration (1971)**

The Iowa General Assembly established an administrative office of the Judicial Branch in 1971. Directing this office is the state court administrator, who reports to the Supreme Court. Administrative duties at the district level are carried out by district court administrators, one of whom serves in each of the state's eight judicial districts.

Overall, the state court administrator is responsible for managing the Judicial Branch and administering funds appropriated to it. The state court administrator prescribes the practices and procedures to be used for the following Judicial Branch operations: preparation, submission, review and revision of budget requests; accounting, auditing, allocation and disbursement of funds; and purchase of supplies and equipment. Additional duties include formulating and submitting recommendations for improvement of Judicial Branch organization and operation; collecting and compiling court information and statistical data; working with district court administrators on administrative and fiscal matters; administering the judicial retirement system; and supervising Supreme Court, Court of Appeals and Supreme Court clerk staff members. The duties and functions of the state court administrator's office have expanded gradually over the years as additional support services,

including more advanced information systems, have been required by the Supreme Court and the districts.

### **Consolidation of Judicial Districts (1972)**

Under legislation that took effect in 1972, the 18 judicial districts established in 1969 were consolidated into eight judicial districts, a number that survives to the present day. The chief justice, with the approval of the Supreme Court, appoints the chief judge of each district to a two-year term. Together, the eight chief judges (and later the chief judge of the Iowa Court of Appeals) and the chief justice of the Supreme Court make up the Judicial Council, which advises the Supreme Court on court administration.

### **Trial Court Unification (1973)**

With passage of the Unified Trial Court Act of 1973, the Iowa General Assembly reformed the state court system by establishing a unified trial court known as the "Iowa District Court." This legislation abolished over 500 justice of the peace courts, 899 mayor's courts, 14 municipal courts, and 34 police courts.

The new system granted district judges statewide and general jurisdiction, with authority to handle all types of civil, criminal, juvenile and probate cases. Supplementing the system are judges of limited jurisdiction, including magistrates, district associate judges, associate juvenile judges and probate judges.

The Act eliminated the fee system that funded the elective justices of the peace, and created part-time magistrate positions, ranging from one to six per county. Magistrates are not required to be law-trained, but lawyers are given "first consideration" by the appointing commissions. (In 1996, approximately two-thirds were licensed attorneys.) Magistrates issue search warrants and emergency hospitalization orders, hold preliminary hearings and preside at trials of small claims (money judgments of \$4,000 or less), simple misdemeanors, and forcible entry and detainer actions.

District associate judges, formerly known as full-time magistrates, have the same jurisdiction as part-time magistrates with the addition of indictable misdemeanors, operating-while-intoxicated felonies, civil trials up to \$10,000, and some juvenile cases. Associate juvenile judges devote all their time to juvenile matters, including delinquency proceedings, children in need of assistance, and termination of parental rights. Only Polk County uses the services of a probate judge.

### **Creation of Iowa Court of Appeals (1976)**

To ease an overcrowded Iowa Supreme Court docket, the General Assembly in 1976 established a five-member intermediate appellate court. (A sixth member was added in 1983.) The Iowa Court of Appeals has appellate jurisdiction in all civil and criminal cases except those involving apportionment, lawyer discipline and judicial conduct. Its docket is assigned by the Supreme Court, which screens all appeals for submission or transfer to the Court of Appeals. Decisions of the Court of Appeals are final unless the Supreme Court grants further review on application of either party. Court of Appeals judges have supervisory and administrative duties only in relation to their own court, which frees them to concentrate on deciding a high volume of cases.

### **State Responsibility for Court Funding (1983)**

Until 1983, the Judicial Branch was largely funded with property taxes allocated by the state's 99 county governments. The Court Reorganization Act of 1983 removed that burden from the counties and placed it with the State General Fund. Over a period of four years, the State assumed the cost of jury and witness fees and mileage, court reporters, court attendants (formerly called bailiffs), referees, juvenile court officers, and clerks of court and staff. The Act removed clerks of court from partisan elective politics, and made them accountable to the chief judge of each district. Salaries and benefits comparable to those in place for other state employees were also mandated by the 1983 Act. However, it has remained the responsibility of

Iowa's counties to provide and fund the court system's physical facilities, maintenance and custodial services.

### **Establishment of Iowa Court Information System (1987)**

With the assistance of the National Center for State Courts, the Judicial Branch in 1987 undertook an ambitious project to link electronically the court administrators and clerks of court in all 99 counties. The Iowa Court Information System (ICIS) was designed to automate case scheduling and court data-processing throughout the state. At this writing, the system has been implemented in 55 counties—roughly two-thirds of Iowa's most populous counties. Full implementation will not only further facilitate case management, but could enable the Judicial Branch to interface with other departments, such as Corrections, Public Safety, Revenue and Finance, and Transportation.

## **TODAY'S JUDICIAL BRANCH**

In 1996, the nine justices of the Iowa Supreme Court oversee and administer a court system that employs approximately 1,900 persons, including 354 judicial officers, and provides services at 147 locations around the state. (See "Judicial Branch Personnel at a Glance" in this chapter.) In addition to its adjudicative role as a court of last resort for approximately 400 cases per year, the Supreme Court functions as the "board of directors" of the Iowa Judicial Branch.

Not only does the Supreme Court exercise supervisory and administrative control over the trial courts, it has responsibility for rule-making in the areas of civil and criminal procedure, evidence, appellate procedure, probate, involuntary hospitalization of the mentally ill, involuntary commitment or treatment of substance abusers, district court practice, professional conduct and admission to the bar. The Court controls the licensing of lawyers and oversees the Client Security and Disciplinary Fund, the Continuing Legal Education Commission, and the Interest on Lawyer Trust Accounts (IOLTA) program. The Court also appoints and supervises committees, commissions and boards in existing areas of responsibility, and when new issues emerge.

### Judicial Branch Personnel at a Glance

#### Judicial officers

- 9 Supreme Court justices
- 6 Court of Appeals judges
- 108 district court judges
- 54 district associate judges
- 12 associate juvenile judges
- 1 associate probate judge
- 28 senior judges
- 136 magistrates

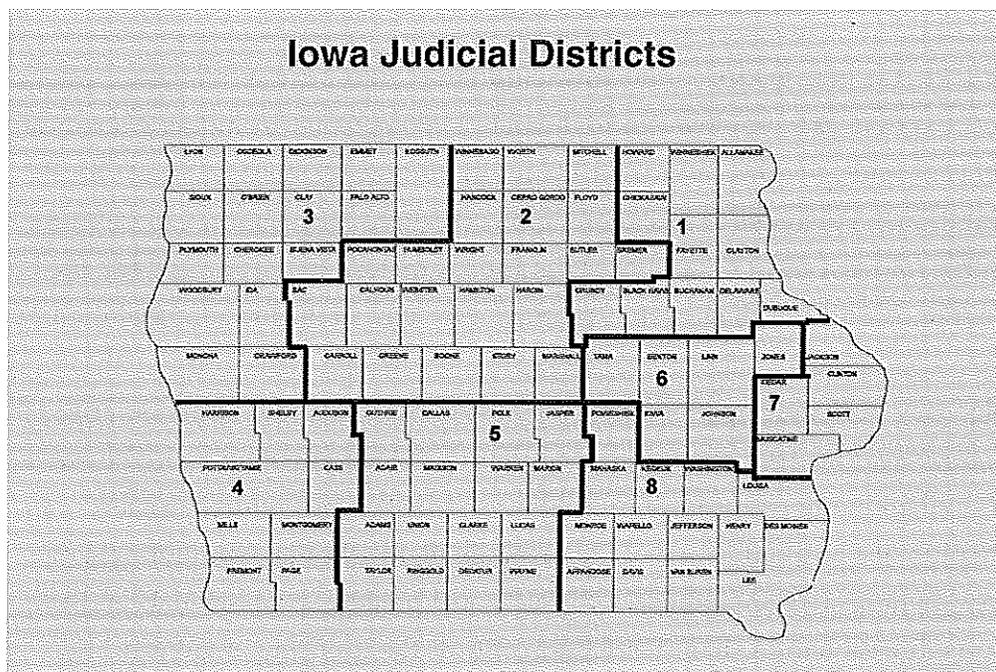
#### Non-judicial personnel

- 823 clerks of court and staff
- 269 juvenile court officers and staff
- 206 in district court administration
- 172 court reporters
- 65 in state court administration
- 17 Supreme Court staff
- 10 Court of Appeals staff

## ADMINISTRATION AND FUNDING

Iowa is divided into eight judicial districts ranging in population from 184,130 (Fourth District) to 576,610 (Fifth District), and in size from five counties (Seventh District) to 22 counties (Second District).

### Iowa Judicial Districts



Administering the system from the state level are the state court administrator, a deputy, department heads for personnel, finance, human resources, education, and information systems, and support staff.

In July and August each year, budget requests for the following fiscal year are prepared by each of the eight districts, as well as the other components of the Judicial Branch. At the end of September, the court administrator and chief judge of each district meet with the nine members of the Supreme Court to discuss their budget needs. Afterward, in consultation with the state court administrator and staff, the Supreme Court prepares the Judicial Branch budget and submits it to the Governor for inclusion in the Governor's proposed budget, which is presented to the General Assembly when its session begins each January.

The legislative subcommittee that reviews the Judicial Branch budget is the Justice Systems Joint Appropriations Subcommittee, which also considers the budget requests of the Attorney General, the departments of Corrections, Public Safety and Public Defense, the Parole Board, and the Law Enforcement Academy.

## **SUMMARY**

To examine this history is to understand the decades of tradition and change that have gone into creating today's courts in Iowa. From its simple beginnings to its now complex administrative system, Iowa's Judicial Branch is a venerable institution that has continually adapted and evolved to serve the people of this state. This realization underscored the seriousness of the Commission's charge, and reinforced its attempt to honor such history and tradition as it considered how the Judicial Branch might adapt to the future.



# Iowa's Courts Today

Once the Commission on Planning for the 21st Century had examined the history of Iowa's Judicial Branch, it looked at the present—where the courts are today. The Commission began by identifying the major strengths and weaknesses of the court system. It then articulated a mission statement and statement of core values. Fact-finding activities—such as a public opinion survey, focus groups and public hearings—were undertaken to obtain evaluations of the courts from those inside and outside the system. Commission members used the information to assess Judicial Branch performance—an assessment which would inform their vision for Iowa's courts as well as the recommendations intended to move the courts forward over the next twenty-five years.

## **Mission Statement**

The Iowa Judicial Branch shall administer justice according to law equally to all people, providing independent and accessible forums for the fair and prompt resolution of disputes.

From June 1995 to March 1996, the Commission's five teams held monthly day-long meetings around the state. Team members toured courthouses in urban centers as well as in more rural areas, meeting with judges, clerks of court, court administrators, court reporters, attorneys and litigants. Among the sites visited were court facilities in Black Hawk, Des Moines, Johnson, Marshall, Muscatine, Polk, Scott and Tama counties. At meetings held in the State Capitol in Des Moines, presentations were made by central administrative staff and outside specialists on court budgeting and finance, information systems, personnel, and education. To gain direct experience with the use of remote video technology, the Steering Committee and Technology Team held meetings over the Iowa Communications Network (ICN), the state fiber-optics system.

## Statement of Core Values

The Iowa Judicial Branch is an institution within the greater framework of the state's democratic government. Its values are common to all democracies, but also reflect the unique role and contribution made by the courts to our society. The Commission believes the following statements represent the core values of Iowa's courts.

- **Equal Justice**—Iowa's courts view all people equally before the law.
- **Quality of Justice**—Iowa's courts provide quality dispute resolution services that are just, predictable and in conformity with the law.
- **Fairness and Impartiality**—Iowa's courts treat all people with respect, fairness and impartiality.
- **Protection of the Individual**—Iowa's courts vigorously guard the rights of the individual and the public order.
- **Independence**—Iowa's courts form an autonomous branch of government, equal to and independent from the other two branches.
- **Freedom from Partisan Politics**—Iowa's courts are free from and do not engage in any form of partisan politics.
- **Integrity**—Iowa's courts serve the interests of the public, rather than personal or private gain.
- **Accountability**—Iowa's courts are open to public scrutiny and accountable to the people.
- **Public Trust**—Iowa's courts seek and rightfully deserve the public's trust, confidence and respect.
- **Accessibility**—Iowa's courts are open, convenient and accessible to all people.
- **Affordability**—Iowa's courts strive to make justice affordable to all people.
- **Timeliness**—Iowa's courts resolve disputes and enforce the law in a timely manner.
- **Fiscal Responsibility**—Iowa's courts are responsible stewards of the public funds allocated for operation of the judicial system.
- **Excellence**—Iowa's courts are staffed by well-trained and hard-working personnel committed to excellence.

## STRENGTHS AND WEAKNESSES

Early on, the teams assessed the current performance of Iowa's Judicial Branch and identified its major strengths and weaknesses. Among the key court system strengths identified by the Commission were:

- The integrity and fairness of the system
- A unified statewide court system
- A high quality of justice for court users
- Competent judges and court employees
- Public respect for the system
- Judicial independence
- The accessibility of courthouses
- Professionalism and civility pervading the system
- Judicial merit selection
- Willingness to promote alternative forms of dispute resolution

Key weaknesses of the state court system identified by the Commission included:

- Insufficient resources to deal with legislative and constitutional mandates
- Inadequate education and training for judges and court employees
- High cost of litigation
- System ill-equipped to deal with juvenile and family problems
- Absence of long-range planning
- Inadequate application of new technologies
- Lack of a defined constituency
- Insufficient information to evaluate court system performance
- Public's lack of understanding of the system
- Burgeoning caseloads and insufficient case management

## FACT-FINDING ACTIVITIES

Further fact-finding was a key ingredient of the Commission's study of the Judicial Branch. Using several methods, it gathered empirical data and anecdotal information on how Iowa's court system actually works, how it is perceived by the public, and how it might be improved. In large part, the fact-finding investigations undertaken by the Commission confirmed the Commission's initial assessment, and served as a further "reality check" on the state of Judicial Branch operations.

### Public Opinion Survey

The Commission was interested in determining the level of knowledge, experience and evaluation of the court system among a representative cross-section of Iowa adults. To this end, the Commission engaged the Iowa Social Science Institute (ISSI) at the University of Iowa to conduct a public opinion survey on the state court system. Between September 12 and October 6, 1995, staff members at ISSI conducted 20-minute telephone interviews with 803 Iowans age 18 and older.

The Commission hoped the survey results would provide some guidance on possible changes in the court system that would improve the delivery of justice. The survey also was expected to produce a baseline measurement against which future survey results could be compared. In drafting questions for the survey instrument, ISSI staff drew on input from a number of earlier surveys that had been conducted in other states, several academic sources on public attitudes toward the courts, and suggestions from Commission members.

*Knowledge*—The survey indicated that the public's knowledge of the courts has increased in recent years. For example, a comparable study conducted by the Judicial Branch in 1981 found that 54 percent of Iowans understood that a defendant is presumed innocent until proven guilty; the Commission's 1995 survey found that 61 percent of respondents understood that fundamental concept. In response to a series of questions probing knowledge of the

courts, 43 percent of respondents demonstrated a high level of knowledge, 40 percent had a medium level, and only 17 percent had a low level of knowledge. Forty percent of respondents indicated that television news was their most important source of information about the courts, a significant increase over the 18 percent found in the 1981 survey.

*Experience*—Public experience with the court system is quite high in Iowa. Survey results showed that about one-quarter of the respondents have served as jurors, and nearly half have been to a courthouse to use court services during the past three years. (A surprising result was the finding that those who have been jurors are no more positive in their evaluation of the courts than those who have never been jurors.) Two-thirds of respondents said they had sought legal advice at one time or another, almost exclusively (94 percent) from private attorneys.

Only 16 percent of survey respondents had settled a dispute by using some form of alternative dispute resolution (ADR) such as arbitration or mediation. However, satisfaction with ADR decisions was very high; some 74 percent of respondents involved with such proceedings were satisfied with the outcome.

*Evaluation*—Evaluations of the courts were mixed. Sixty-five percent of respondents approved of the job the Iowa courts are doing. Further, when compared to other federal and state governmental institutions, Iowa's courts ranked very high. Yet, slightly less than half of survey respondents said they trust the courts. While most thought they would be treated fairly by the system, they also perceived the courts as giving preferential treatment to the rich, powerful and celebrities.

Respondents were more positive toward some parts of the justice system, such as the Iowa Supreme Court, than toward others, such as lawyers or the prison system. They also were more positive about the core values of the courts, such as the guarantee of a fair trial. They were less positive about specific details of how the state courts operate, such as providing speedy trials or treating all groups equally.

Most survey respondents endorsed a number of policy changes aimed at improving court operations, such as increasing the use of ADR and extending court hours into the evening and on weekends. A majority of survey respondents, however, opposed both reducing the number of sites where local court services are offered and replacing judges with computers to handle certain cases.

Particularly interesting was the finding that those who frequently followed the highly publicized O.J. Simpson trial (underway in Los Angeles during the survey period) were no more or no less positive toward the Iowa courts than those who never followed the trial. Indeed, all of the different measures that were included in the survey to determine if the Simpson trial had any effect on evaluations of the courts and broader justice system in Iowa revealed no impact.

### **Focus Groups**

During January and February 1996, the Commission conducted a series of 11 focus groups of court stakeholders to solicit their ideas on how Iowa's courts could be improved and to seek their reactions to the major themes that had emerged from the project. The focus groups included a broad and geographically diverse mix of Judicial Branch personnel and members of the bar; participants were promised confidentiality and urged to be frank about their opinions and concerns. In total, 142 people participated in the focus groups, including 23 clerks of court and staff, 25 legislators, 21 trial attorneys, 19 juvenile court officers and staff, 16 judges, 16 court reporters, 13 district administrators and staff, and 9 Statehouse staff. Focus group sessions were held at court facilities in Burlington, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Fort Dodge, Ottumwa, Sioux City, and Waterloo.

Both oral and written comments were solicited from focus group members. Participants brainstormed current trends affecting Iowa's courts, as well as the strengths and weaknesses of the system. They discussed and rated ten preliminary recommendations (two from each team), and offered their suggestions on how the court system could be improved. They also responded to the question: "What is the ONE thing you would change tomorrow to improve the state courts in Iowa?"

**Focus Groups:  
What ONE thing would you change?**

"Drive the funding of the system by an assessment of the work to be done."

"Better education among the public, youth and adults about the mission and responsibility of the court system."

"Would be more efficient if districts were more evenly drawn and they operated somewhat the same way. Right now each district more or less does their own thing. Operations need to be more consistent statewide."

"We need an ear and action in the Supreme Court."

"Change our name—from "Department" to "Branch"—to foster organizational identity and assert our status as a co-equal branch of government. 'Department' is a misnomer . . . how we refer to ourselves influences how others see us."

"Continue to seek out information from the public and court employees. Input from all parties is very important to make the necessary changes as we go into the 21st century. Thank you for the opportunity to be heard."

Throughout all the sessions, focus group members expressed delight at being asked to share their opinions with the Commission, and seemed encouraged by a court-initiated process that actively sought their views. Their oral and written responses, taken together, provide a wealth of information on the courts. The focus groups also validated the major themes that had become evident during the project.

## Focus Groups—Major Themes

### Administration/Management Issues

- Overworked and inadequate staffing
- Growing caseloads
- Lack of training for judges and court personnel
- Antiquated court facilities with poor security
- Burgeoning pro se litigation
- Frequency of litigants' legal questions
- Need for greater diversity among judges and other court personnel
- No definition of unauthorized practice of law by clerk staff

### Communication concerns

- Lack of horizontal and vertical communication within the system
- No access by "front-line" employees to policy makers
- Little, if any, public education on court issues
- Growing inability to attract jurors
- Uninformed pro se litigants
- Need for better relationships/communications with allied agencies

### Morale issues

- Highly committed and hard-working employees
- Frustration with shrinking/static resources
- Expanding duties, stagnant pay, no depth in staffing
- Inadequate training
- Barriers to serving public
- No recognition of positive job performance
- Perceived lack of advocacy for court employees
- Lack of security at court facilities

### Needs for Additional Funding

- Judges and other court personnel
- Technology, equipment and supplies
- Juvenile services
- Training and education
- Facilities and security

### Legislative Concerns

- Domestic violence litigation
- Unfunded mandates
- Court responsibility for solving social ills
- Increased criminalization of behavior
- Reduced judicial discretion in sentencing

## Public Hearings

During the spring of 1996, Iowa citizens had the opportunity to share their vision of the state court system with Commission members at public hearings held in Bettendorf, Cedar Rapids, Ottumwa, Des Moines, Mason City and Sioux City. Four of the hearings were held in county courthouses; two were held in school buildings. Some 100 persons attended the two-hour sessions, and among those, 51 presented their views in oral or written form. Local court reporters volunteered their time to record oral testimony. Overall, the public comments echoed the concerns voiced in the focus groups and reaffirmed the Commission's earlier assessment of strengths and weaknesses.

Public hearing participants expressed interest in the work of the Commission and spoke passionately about their court system. Many were complimentary, suggesting Iowans are rightfully proud of the integrity, independence and excellence of the state courts. Others expressed dismay at the limited resources devoted by the Legislature to court-related issues, such as family violence or juvenile delinquency. Their public comments covered a broad spectrum of concerns.

### **Public Hearings: Concerns of Iowa Citizens**

- A desire for less adversarial methods to resolve disputes
- Need for comprehensive approach to family law issues
- Lack of security at courthouses
- Not enough regular public input
- Delay in implementation of new technology
- Outdated records management policies
- Need for standardized procedures and practices
- Weak public/court relations
- Need for creative solutions to relieve understaffing

## **SUMMARY**

At least two important lessons emerged from the Commission's outreach to court personnel, court users, and the public at large. First, it learned that the process of gathering information—taking the time to listen to citizens—may be as valuable as any conclusions ultimately drawn from what has been heard. Second, there is an untapped resource out there, a constituency for Iowa's courts that believes the Judicial Branch is an institution worth preserving and strengthening. And that constituency is concerned about what the future holds.



## Emerging Trends and Issues

After examining the history of Iowa's courts and their current conditions, the Commission on Planning for the 21st Century turned its attention to the central focus of this project—the future of the courts. To understand the future of any institution involves the cultivation of “foresight”—the capacity to see into the future with some measure of predictability and understanding, *and* to respond effectively to what has been seen. Such a capacity runs counter to the very nature of the courts.

America's courts are reactive institutions, bound by tradition and governed by precedent. As much as the courts may influence the future in their decisions and judgments, they have little if any tradition or experience in planning for it. Yet, like virtually every other public institution in the late 20th Century, courts must necessarily cope with trends of change that are rapidly transforming our society and our system of justice. If the courts are to adapt and respond to change—even if only to maintain their traditional adjudicatory roles—they must learn to anticipate and plan for the future. This means they must try to understand what the future holds.

In order to accomplish such a task, the Commission undertook several distinct activities. First, it analyzed information on emerging trends both external and internal to the justice system. Next, it examined statistics and forecasts on court-related indicators developed by the Iowa Judicial Branch. Finally, it developed *probable* scenarios for Iowa's courts—hypothetical snapshots of the future based on such trends and forecasts. Together, these investigations revealed just how serious the potential issues facing Iowa's courts were—and pointed to potential steps that might be taken in order to create a *preferred* alternative.

## ANALYZING FUTURE TRENDS AND FORECASTS

In August 1994, the same month the Commission was formed, the *American Bar Association Journal* published a sweeping analysis of the once and future state of justice in America. Entitled "Troubled Justice," this collection of articles examined major issues currently confronting the American justice system, raising the specter of what might happen to this venerable institution if such conditions were to persist.

The bottom line, the *ABA Journal* concluded, was a real and ever-widening gap between the perception of justice in America – a noble system of adjudication founded on such basic concepts as "equal access" and "due process"—and the emerging reality of justice—a beleaguered case-processing system overwhelmed by overcrowded court dockets, increasing litigation costs and growing inequities regarding public access. According to a survey conducted for the *Journal* by the Gallup Organization, only 14 percent of Americans believed it very likely that "justice for all" could be achieved in the future.

With the specter of a looming crisis in the justice system, the *ABA Journal* articles set the tenor for the Commission's investigation of emerging trends that will shape the future of Iowa's courts. Commission teams began by scanning a wide variety of publications, articles and reports for key "external" trends—larger demographic, economic, technological, governmental and societal forces that are reshaping the nation in general, and by extension, the state of Iowa. Key external trends identified by the Commission—some of them already in force, but all of them likely to exercise their influence well into the next century—included the following:

- Aging of the American population
- Growing racial, ethnic and cultural diversity
- Shifting population base; from rural to urban
- Increasing social problems in rural areas
- Shifting national economy; from industrial to knowledge/service base

- Globalization of the American economy
- Shrinking of the American middle class
- Exploding scientific and technological knowledge
- Growing use of information technology; computers and telecommunication
- Declining federal funding; decreasing federal entitlement programs
- Decentralization of government power and authority
- Increasing societal disintegration; breakdown of family/community values
- Restructuring of the American family
- Growing child poverty; the “feminization” of poverty
- Increasing presence of single-issue groups, cults and vigilante movements
- Accelerating pace of change in all aspects of society

Such identified trends seemed to confirm the Commission’s understanding that, as we approach a new millennium, American society is undergoing a major transformation. Direct evidence of these trends can be seen in Iowa.

Next, Commission teams scanned for key “internal” trends—major justice-specific trends that will have a direct impact on the justice system in general and the courts in particular. Drawing on reports and studies developed by the American Judicature Society, the State Justice Institute, the National Center for State Courts, and other federal and state court futures commissions, team members identified key justice-specific trends likely to have profound implications for Iowa’s courts. Key existing and emerging justice-specific trends identified by the Commission included the following:

- Increasing court caseloads
- Growing complexity of the law and court cases
- Accelerating codification of the law; more statutes and regulations
- Increasing demand for specialization of both courts and attorneys
- Growing costs of litigation

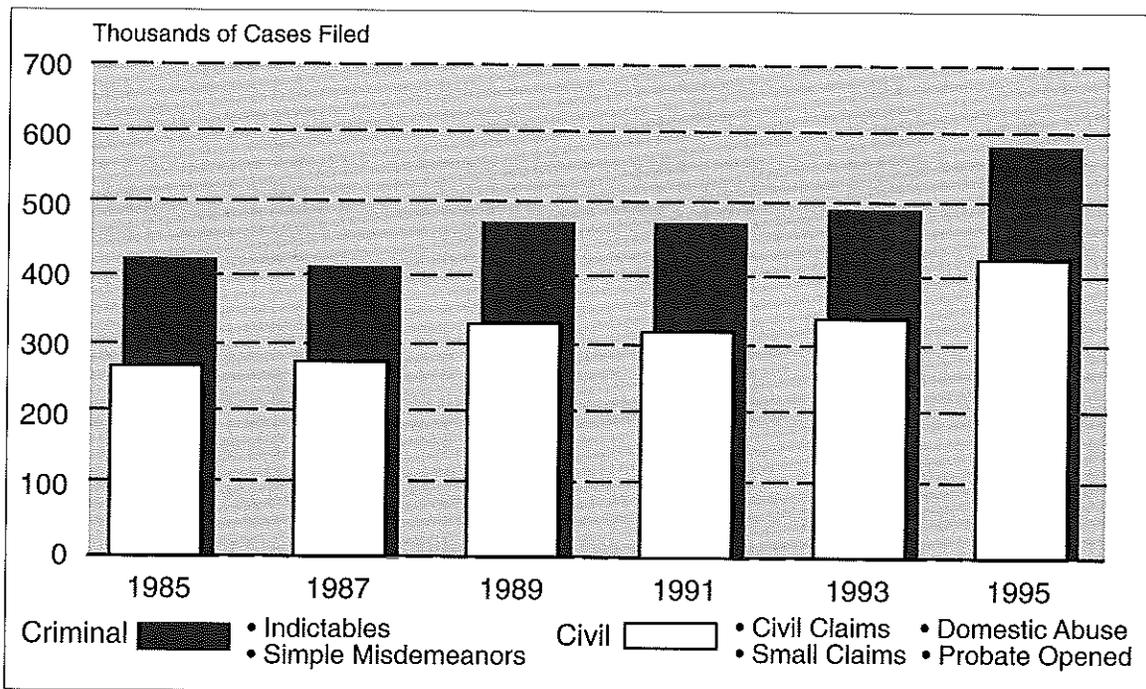
- Increasing number of cases with multiple litigants
- Increasing number of “mass tort” cases (class action suits)
- Declining respect for the rule of law
- Increasing criminal, juvenile and domestic abuse case filings
- Continuing ineffectiveness of criminal rehabilitation programs
- Rising expectations for incarceration of criminals without a corresponding increase in funds
- Overcrowding of prisons, correctional facilities and probation programs
- Growing recognition of the need for total family case management
- Rising volume of “pro se” litigation (legal self-representation)
- Rising use of alternative dispute resolution methods (ADR)
- Increasing private resolution of disputes
- Declining proportion of precedent-setting cases
- Growing “rights-based” judicial system
- Continuing non-lawyer presence in legislatures
- Increasing demands for quality justice
- Continuing shortfalls in funding for courts

In short, these justice-specific trends indicate a wave of existing and emerging issues that portend dramatic, even ominous, changes for the courts. Such trends clearly raised the question whether Iowa’s court system will be able to continue to deliver quality justice consistent with its time-honored traditions and values.

The Commission turned its attention to statistics on court caseloads and related indicators prepared by the Iowa Judicial Branch. The purpose was to see to what degree related trends in Iowa’s courts might be detected or measured. It is only in recent years that more comprehensive and reliable data on Iowa’s courts have become available. The most recent numbers reveal how much change Iowa’s courts have already undergone.

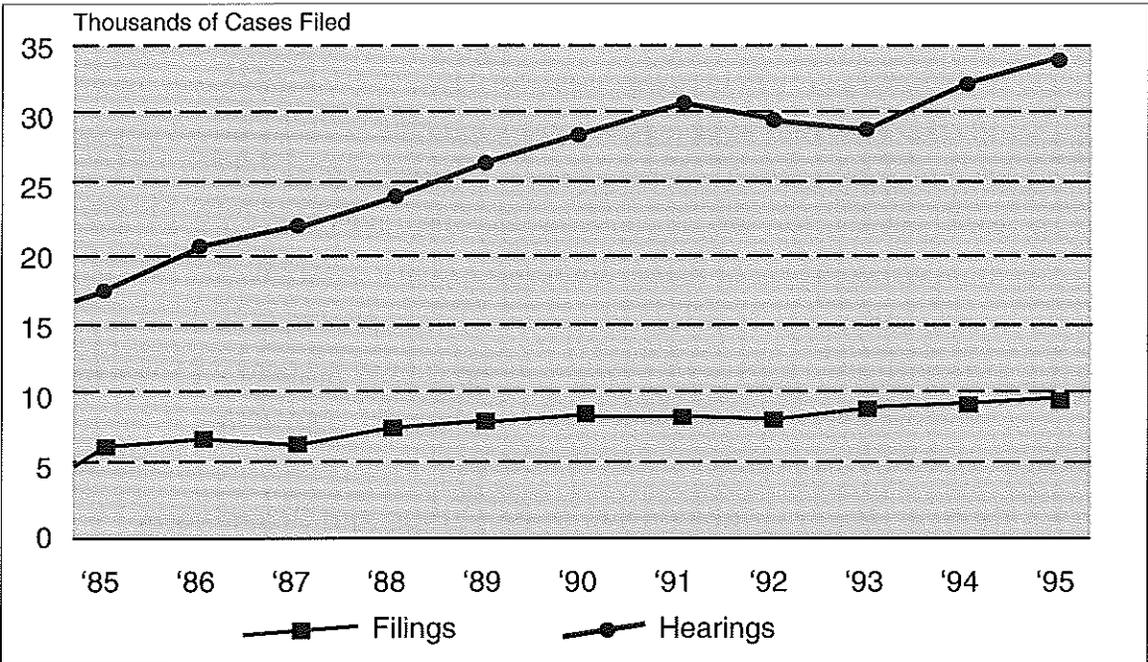
Between 1985 and 1995 there was a sustained increase in the number of filings for most major case types in Iowa's courts. Total civil and criminal cases increased substantially. (See Table 1.) Significantly, during this period the number of major criminal cases first surpassed, then steadily outpaced, the number of major civil cases. (See Table 4.) While juvenile cases increased steadily, juvenile *hearings* nearly doubled during the same time frame, revealing the increased complexity of issues confronting juvenile courts. (See Table 2.) Domestic abuse cases literally exploded, in part due to legislative changes making access to the courts easier for abuse victims. (See Table 3.) Not surprisingly, Judicial Branch statistics showed that case dispositions per judge (i.e., district court judges, district associate judges, and magistrates) also reached an all-time high during the same ten-year period.

**Table 1: Civil/Criminal Filings in Iowa Trial Courts**



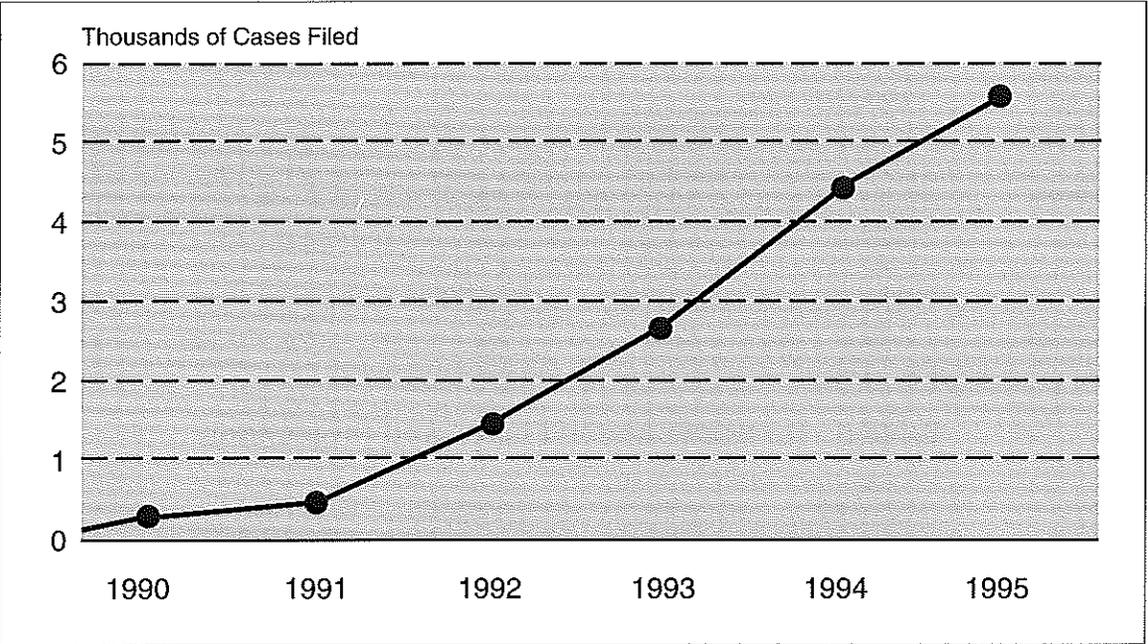
Source: State Court Administrator's Office

**Table 2: Juvenile Filings and Hearings**



Source: State Court Administrator's Office

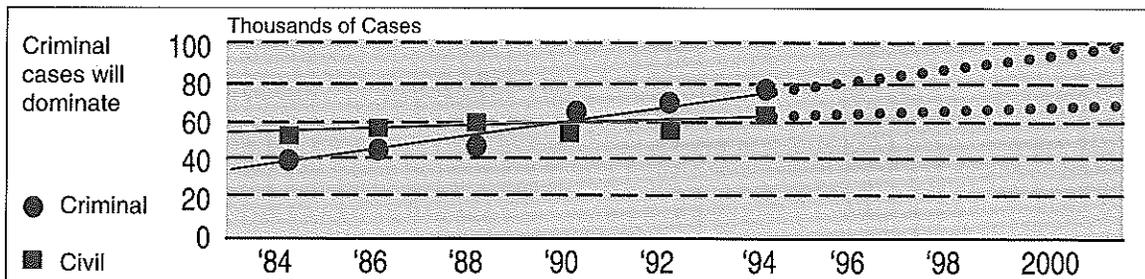
**Table 3: Domestic Abuse Filings**



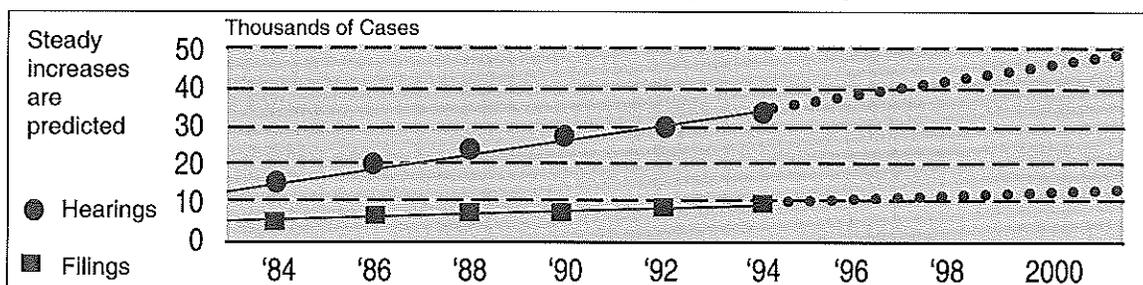
Source: State Court Administrator's Office

Of greater interest to Commission members were Judicial Branch forecasts for the future of the courts. Of course, attempting to forecast future caseloads is, at best, a complex and difficult proposition. Many factors can potentially influence the growth in court caseloads. However, assuming that the historical caseload trends of the past ten years continue on their current trajectory, the Judicial Branch's five-year forecasts reveal how the burden on the courts could increase between now and the year 2000. (See Tables 4, 5, 6.) Most dramatic would be the rising number of criminal cases, juvenile case filings and hearings, and domestic abuse cases. The implications for court funding, personnel and facilities are obvious. If the same projections were extrapolated to the year 2020, the consequences would be staggering.

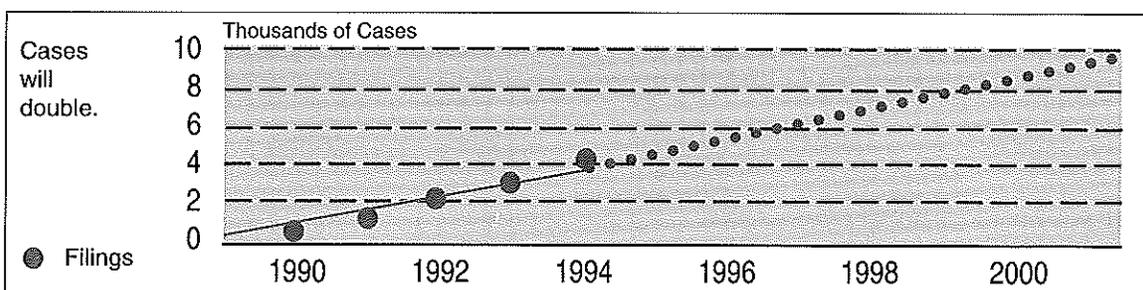
**Table 4: Major Criminal/Civil Case Filings and Projections**



**Table 5: Juvenile Filings/Hearings and Projections**



**Table 6: Domestic Abuse Filings and Projections**



Source: State Court Administrator's Office

## A “PROBABLE” SCENARIO FOR IOWA’S COURTS

Commission teams then developed a “probable” future scenario for Iowa’s courts—that is, a picture of the future of the courts assuming (1) identified trends continue apace and (2) no significant changes in court policies, administrative procedures or overall direction. The “business-as-usual” picture of the future that resulted represents the Commission’s best guess at what Iowa’s courts might look like in the year 2020 if they continue on their current course. Among the images generated for Iowa’s courts in 2020, most were decidedly bleak:

- District court dockets overwhelmed by criminal, drug, juvenile, domestic cases
- Growing backlogs of untried cases
- Lack of space on court dockets for civil trials, especially jury trials
- Judges as case-processing “robots” and supervisors of criminal populations
- Judge and court personnel “burnout”
- Decreased quality of judicial personnel due to undesirable nature of the work
- Assembly-line justice; insufficient time for judicial deliberation
- Forced “regionalization” of court services
- Application of new technologies for efficiency purposes only
- Increased stringency of trial management practices
- Drastically reduced “discovery” in many cases
- Compromised constitutional rights of litigants
- Mandatory mediation of civil and perhaps criminal cases
- Criminal cases increasingly dismissed due to lack of speedy trials
- Fewer criminals serving time due to dismissed cases
- Increased barriers to access to courts; no public access to judges
- Exclusionary costs of litigation; decreased access to justice
- Unequal allocation of court resources statewide (urban versus rural)
- Overcrowded, inadequate court facilities

- Lack of space for court records
- Courts users and personnel in danger of increased violence
- Decreased quality of justice
- Erosion of public confidence in the courts and our democracy
- Evolution of private justice system
- Anarchy and resort to self-help; vigilante justice

The point of creating a probable scenario, of course, is not so much to predict the future as it is to predict the consequences of not acting. At the same time, it would be misleading to think that this scenario can simply or easily be averted. Indeed, major preemptive initiatives will be necessary.

"The future  
is not a  
gift—it's an  
achievement."

—Henry  
Lauder

The challenge this scenario presented to the Commission is clear: If we know where the courts may be headed and that destination is unsatisfactory, then where, instead, would we like the courts to be? More importantly, how do we get there? In short, what is our *preferred* scenario – or vision – for the courts and what must we do to make that vision a reality? These questions became the driving force behind the Commission's further investigations. The visions and recommendations that follow form its answers.





# Delivery of Justice: Access and Quality

## VISION STATEMENT

*In the 21st Century, all Iowans have access to multiple options for the resolution of both civil and criminal disputes. A formalized case and dispute administration system managed by the courts enables the courts and participants in the justice process to select the most appropriate approach and place for the resolution of disputes. By combining different approaches and access points, the courts and all those involved in the delivery of justice have access to a matrix of dispute resolution options, each providing the degree of formality, cost, convenience, efficiency and timeliness appropriate to the situation. For example, one option may offer an abbreviated, less complicated method that saves time and money, while another may provide for in-depth exploration of issues and a more formal decision-making process.*

### Team Members

#### Co-Chairs:

Ted M. Hutchison  
Dwight W. James  
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David J. Blair  
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Linda McGuire  
Stephen M. Morain  
James A. Mullins  
Charles M. Palmer

*Taking advantage of various locations, types of facilities and technology, multi-option justice is able to bring people to the justice system, and justice to the people. It also ensures the quality of the process and the result. Delivery of justice is thus attuned to the needs of the major stakeholders in the process—court users, judges and court employees, attorneys and society at large.*

## RECOMMENDATIONS

### MULTI-OPTION JUSTICE SYSTEM

**1.1 Administer Delivery of Justice — The Judicial Branch, as an independent branch of state government, should continue to administer our system of delivery and access to justice.**

**Rationale:** In accordance with the Constitution of the State of Iowa, the Iowa Supreme Court and our other state courts are vested with the exclusive exercise of judicial power in Iowa. The Iowa courts provide an independent and accessible forum for the fair and prompt resolution of disputes, administering justice equally to all people according to the law. In addition to these guiding principles, the courts recognize and honor other core values, including providing quality dispute resolution services, serving the interests of the public, protecting the rights of the individual, maintaining its non-partisan status, remaining accountable, and making justice affordable to all people.

- **Implementation priority:** Ongoing

**1.2 Establish Multi-Option Justice System — The Judicial Branch should establish and administer multiple forms of dispute resolution as a part of the Iowa court system. In addition to traditional jury trials and court cases, this system may include, but not be limited to, mediation, arbitration, and other forms of alternative dispute resolution (ADR).**

**Rationale:** Iowans are turning to the courts for help more now than at any other time in the state's history. The number of cases filed in the state court system has soared to an all-time high, and current projections indicate that this trend will continue into the foreseeable future. Without new initiatives or measures to relieve some of the case pressure on the courts, court users will undoubtedly encounter increased delays, escalating legal costs, greater uncertainty and diminished control in resolving their disputes. In the end, the quality of justice for all Iowans will suffer.

Due in part to these trends, citizens are beginning to seek out alternatives to traditional forms of adjudication that allow them to resolve their disputes in a less adversarial manner and in a system over which they have greater

Four out of five survey respondents say they would rather use alternative dispute resolution than go to court.

control. The Commission's public opinion survey indicates growing public interest in and desire for ADR options. Four out of five survey respondents say they would rather use ADR than go to court. At the same time, over half believe that such alternatives should be part of the formal court system.

In the future, dispute resolution may take many forms, including not only formal litigation, but also mediation, arbitration, and other non-traditional options. A "multi-option" system of dispute resolution is consistent with sound principles of judicial administration, and the core values of Iowa's courts, including fairness, accessibility, efficiency and affordability. It is also supported by developing national research and the experiences of both state and federal courts. The changing expectations and experience of Iowans and their legal counsel warrant the implementation of such a system. If legitimate extra-judicial processes of dispute resolution are not prohibited or discouraged, the public justice system will be improved and advanced.

The courts should explore alternatives to court-based resolution of disputes, and foster those programs that will best serve the needs of Iowans. Central to this recommendation would be a concerted effort by the courts to actively solicit input from various providers of alternative dispute resolution and to understand the opportunities and constraints presented by various methods. Important, too, will be the establishment of ongoing assessment efforts to identify the effectiveness of specific programs and measure user satisfaction.

- **Implementation priority:** Medium/long-term

**1.3 Establish Early Assessment System — The Judicial Branch should establish an early assessment system to help citizens determine the most appropriate approaches and forums for the resolution of specific disputes.**

**Rationale:** In order to establish a multi-option justice system, the Judicial Branch needs to develop a mechanism by which to determine the most

appropriate forums for the resolution of specific disputes. Currently, no formal system exists to direct the flow of potential cases through the courts or other dispute resolution forums in a manner that serves the best and highest interests of potential litigants, the courts and the public at large. The Iowa court system should establish and implement an “early assessment” system to help determine the most appropriate legal options and forums for resolving disputes, and encourage citizens to pursue those options. Without such a system, the backlogs and expenses currently sustained by the courts and the public at large are bound to continue growing.

As an extension of existing pretrial, discovery, scheduling and settlement conferences, the system would be administered by trained personnel according to the principles of fairness, openness, economy and practicality. Disputes would be assessed early in the judicial process, with citizens selecting the most appropriate means of resolution from a wide array of options. Use of the system would be explained through various computerized or printed information systems, but trained resource personnel also would be available, as needed.

The rights of civil litigants to trial by jury and access to the court system are recognized and preserved inviolate by the U.S. and Iowa constitutions. Although good-faith differences of opinion exist about the implementation of a multi-option justice system, the philosophical and practical validity of ADR is well-established and ought to be incorporated formally within the Iowa justice system. *Voluntary* court-annexed ADR processes will always be desirable, but courts should have the authority to explore responsible and incremental innovations with *mandatory* approaches to ADR. An early assessment system would screen out those cases and disputes that are voluntarily recognized to be inappropriate for the traditional jury trial.

- **Implementation priority:** Medium-term
- **Related recommendations:** Planning and Public Education 3.2

“The right of trial by jury shall remain inviolate . . . . Misjoinder, camoullage, or subterfuge cannot deprive the plaintiffs of this right.”

*Kosman v. Thompson*,  
204 Iowa 1254 (1927)

**1.4 Set Standards for Dispute Resolution — The Supreme Court should set standards for dispute resolution when court approval of the outcome of an alternative form of dispute resolution will be sought or required. The courts should continue to protect the rights of all persons who have not agreed to be bound by the decisions reached in alternative forms of dispute resolution.**

**Rationale:** Today in Iowa, mediation, arbitration and other forms of ADR are unquestionably on the rise. Both the reality of overcrowded court dockets and the desire of the public to have greater control over the resolution of their disputes have furthered this growth. Many ADR practitioners are not lawyers, and that trend is expected to continue. Clearly, a new system of dispute resolution options is evolving, which leads to the question of how this new system will interface with the formal court system and what assurances will be provided that the same standards of conduct and professionalism will be applied to alternative forms of dispute resolution as are currently applied to the practice of law.

In the most optimistic scenario, alternative dispute resolution will relieve pressures on the courts and provide new, less costly and more conciliatory options for dispute resolution. In the worst case, it will lead to a patchwork system of dispute resolution that is unregulated, arbitrary and potentially inequitable. Such a system necessarily lacks the precedent and predictability commonly associated with traditional court decision making. The difference will depend on an established and accepted system for setting standards and overseeing the delivery of dispute resolution alternatives. The Judicial Branch has a keen interest in these issues.

The Judicial Branch has already begun to explore the role of the courts in overseeing dispute resolution options. For example, a Supreme Court committee is currently examining the role of lawyers in ADR and will make recommendations to the Court as to whether the Iowa Code of Professional Responsibility for Attorneys should apply to lawyers when they serve as mediators and arbitrators. In 1995 the Supreme Court funded a mediation training seminar for lawyers in the Second Judicial District, as well as mediation programs based in Ames, Davenport, Iowa City, Mason City, Waterloo.

It is the belief of this Commission that court regulation and/or oversight of private ADR is appropriate with regard to the training, qualification and certification of neutrals, the ethical responsibilities of ADR participants who are lawyers, and pro-active court rules that encourage the early identification of appropriate cases and their referral to ADR. It is also important that no private dispute resolution system make decisions that affect the rights of persons or entities who have not voluntarily consented to be bound by those decisions.

- **Implementation priority:** Short/medium/long-term

## **ACCESS TO JUSTICE**

**2.1 Provide Access Points in Every County — The Judicial Branch should provide a system of access points to core court services in every county, including information and referral to allied agencies.**

**Rationale:** Citizen access to justice is at the heart of the Iowa court system. According to the Commission's public opinion survey, 88 percent of respondents identified "conveniently located courthouses" as an accurate description of the present system, while 57 percent felt that reducing the number of places where court services are offered is a bad idea. Clearly, Iowans want and deserve the greatest local access the system can provide.

The current system of county-owned and -operated courthouses has resulted in limited access for some Iowans. Resources are neither efficiently nor effectively allocated. In addition, some county governments are experiencing fiscal difficulties, and county support of physical court facilities may not be a priority as resources grow increasingly scarce. As technology brings changes, our existing notion of a courthouse may change as well. The demand for court services in locations other than courthouses will likely increase.

Central to this recommendation is the idea of increased, not decreased access to justice. Accordingly, every Iowa county should contain at least one and as many as needed "access points" where persons can avail themselves of court

services conveniently and efficiently. The exact form these access points may take may not be capable of definition today, and may be prompted by changes in technology and other trends. Certainly, however, the increased use of computers, fiber optics and “video-presence” can be used to bring people to the court system and bring the system to the people.

#### **Success Story: Laptops for Judges**

The Judicial Branch has purchased 103 personal computers for judges and court reporters. Many chose laptop models for the flexibility they offer to staff traveling daily from courthouse to courthouse within a judicial district. Judges report using their PCs to edit orders, compute child support, access legal research using CD-ROM technology, and craft jury instructions “on the road.”

Already, court systems in other parts of the country are beginning to experiment with such systems as computer-based “kiosks” in courthouses and other public places where people may retrieve information or conduct simple legal transactions. The rise of the “information highway”—including home computers and the “Internet”—promises to offer other new possibilities for citizens to have access to the courts in quick, simple and cost-effective ways.

Information and referral services are viewed as an important resource for the community, and are important components of the total service package the courts should offer in the future. An informed public will be better equipped to more fully avail itself of the services of the justice system, and a lack of information will be a deterrent to full access. The use of referrals may divert matters away from the court system that are more appropriately addressed by other agencies or service providers.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Technology 2.4, 2.5, 3.4

**2.2 Explore Expanded Venue — The Judicial Branch should explore expanded venue to provide more flexible and efficient services to court users.**

**Rationale:** In coming years, the advent of information technology and the public's desire for greater convenience and access to justice will see the authorization of such practices as statewide electronic filing. Under such a system, court users throughout the state would be able to file documents electronically from remote locations other than their local county courthouse. In addition to providing Iowans with greater access to the courts, such a system could also bring greater efficiency to the filing, docketing, and management of cases.

If county lines become to some degree artificial boundaries with little practical meaning in this application, the concept of "venue"—the geographical location in which a case is to be filed and heard—may need to be reassessed. As litigation becomes more complex and specialized, and if the need for physical courthouses decreases due to growing use of new technologies, the Judicial Branch should actively explore the concept of expanded venue to provide more flexible and efficient services to court users. As part of this effort, the use of regional litigation centers—where trials and other proceedings could be held, as needed, with state-of-the-art technology—may be considered. However, implementation of regionalized litigation should be considered only if it could provide better, more timely and more efficient service and would not pose a barrier to local access. Ultimately, the use of technology by Iowa's courts may in fact reduce or eliminate any potential need for regional litigation centers.

Implementation of regionalized litigation should be considered only if it could provide better, more timely and more efficient service.

- **Implementation priority:** Medium/long-term
- **Related recommendation:** Technology 2.5

**2.3 Eliminate Barriers to Justice — The Judicial Branch should work to identify and eliminate physical, language, cultural, gender, economic and racial barriers to justice.**

**Rationale:** The findings of the Equality in the Courts Task Force and the Commission’s public opinion survey, in which a majority of respondents felt that court procedures are often biased in favor of one side, point out a perceived need to improve access to and fairness in the Iowa court system. As Iowa’s population grows increasingly diverse, the court system should be ever-vigilant in safeguarding the rights of all participants to enjoy equal access to quality court services. The courts should continually assess their performance in these regards, and any barrier to access must be carefully scrutinized and eliminated, if possible. This may require an ongoing effort in educating, sensitizing, training, and evaluating all court personnel in maximizing access for all Iowans. Any persons who feel they have been aggrieved in this regard must have a mechanism for meaningful input.

- **Implementation priority:** Short/medium/long-term

**2.4 Ensure Safety and Security — The Judicial Branch should establish and enforce measures to ensure the safety and security of participants and employees in the judicial process.**

**Rationale:** The court system is dedicated to the peaceful resolution of disputes. An increase in violent crime, especially that involving the use of drugs and weapons, has heightened the need for the court system to maintain secure facilities. New facilities should be designed with state-of-the-art security systems in place, and those existing facilities still in use should be retrofitted with weapons and explosives screening, surveillance capability, etc. Safety protocols and other security procedures should be continually practiced and revised as needed to meet the changing safety needs of the system. All employees and users of the court system should be made aware of potential safety risks and should be educated on ways to best minimize those risks.

- **Implementation priority:** Short-term
- **Related recommendation:** Technology 3.3

**2.5 Promote User Satisfaction — The Judicial Branch should promote increased user satisfaction, emphasizing professionalism, courtesy, civility and responsiveness. Judges and court personnel should be provided with appropriate opportunities for personal and professional development in these areas.**

**Rationale:** The court system is an institution that affects the lives of all Iowans. The Commission's public opinion survey showed that nearly half the respondents had visited a county courthouse within the last three years. While most respondents thought they would be treated fairly by the courts, they also perceived the courts as giving preferential treatment to the rich and powerful. In addition, a significant number felt that the courts are too expensive, not user-friendly, and not timely in resolving cases.

The manner in which court users are treated by judges and court personnel influences not only their personal experiences, but also their perceptions of the institution as a whole. User dissatisfaction could reinforce public distrust of the justice system. As such, it is important that the courts treat users with the utmost respect, civility and responsiveness. As is seen in the private sector, a customer service orientation creates greater satisfaction among users of the system. Judges and court personnel should be provided with appropriate opportunities for personal and professional development in these areas. The Judicial Branch should encourage training, education and other programs that will promote user satisfaction.

- **Initiate implementation:** Short/medium/long-term
- **Related recommendations:** Administration 1.2., Planning and Public Education 1.4, 3.1, 3.3

## **QUALITY OF JUSTICE**

**3.1 Retain Merit Selection of Judges — The State of Iowa should retain its current system of merit selection of appellate judges and trial court judges of general jurisdiction.**

**Rationale:** The excellence of Iowa's judicial system is in part the result of its commission-based judicial selection process for appellate judges and general

jurisdiction judges. This process, commonly known as the “Missouri Plan,” relies on nonpartisan judicial nominating commissions composed of lawyers and non-lawyers. Periodic training sessions are held for commissioners to inform them of the responsibilities of judges and the professional skills needed by members of the judiciary. After interviewing the applicants for a judgeship, each commission submits a list of nominees to the Governor, who selects an appointee from among those on the list. Judges selected under the merit system stand for a retention election one year after appointment and at regular intervals thereafter.

In Iowa, the State Judicial Nominating Commission selects nominees for the Supreme Court and Court of Appeals; District Nominating Commissions, one for each judicial election subdistrict, select nominees for district court judgeships. The lawyer members of the commissions are elected by their colleagues, whereas lay members are appointed by the Governor. The senior justice of the Supreme Court serves as the chair of the state commission, while the senior judge of each election subdistrict serves as the chair of its district commission.

The commission-based selection process is a time-proven method for choosing judges. Iowa has used it for over 30 years. Its goal is to remove from the judicial selection process the more undesirable aspects of partisan politics and to base the selection of judges on their professional qualifications. This process was established in Iowa by a constitutional amendment approved by voters in 1962. Iowa was the second state in the nation to endorse merit selection of appellate judges and all trial court judges of general jurisdiction.

- **Implementation priority:** Ongoing

**3.2 Evaluate Judicial Performance — The Judicial Branch should regularly monitor and evaluate judicial performance in order to improve the quality of justice.**

**Rationale:** Courts should discharge their responsibilities in a fair, courteous and timely manner. The current system of lawyer plebiscites and retention elections for judges provides little meaningful feedback to judges or useful

information to the public concerning judicial performance. While judges must continue to make decisions based upon legal principles and not political or even publicly popular considerations, they must do so in a manner that inspires public confidence in the judicial system. In order to ensure such public confidence, regular monitoring and evaluation of judicial performance is essential. Judicial performance standards should include the appearance of fairness, courtesy to participants, decisions rendered in a timely fashion, and related concerns.

- **Implementation priority:** Medium-term
- **Related recommendation:** Administration 3.4

### **3.3 Ensure Staffing and Resources — The Judicial Branch should have the staffing and resources needed to assure high-quality decision making and administration of justice.**

**Rationale:** In order for the public to receive timely, fair and well-reasoned decisions of the disputes brought to the court system, that system must have the resources at all levels to support the decision-making process. This means adequate personnel, i.e., clerks of court, court attendants, court reporters, judicial clerks and judges, as well as sufficient court facilities, including court buildings, library access and current technology. Staffing and resources also must be sufficient to allow judges adequate time to research and write their decisions.

Staffing and resources must be sufficient to allow judges adequate time to research and write their decisions.

A rapidly changing society is placing greater demands on Iowa's courts. This, in turn, means that additional resources are required to continue providing essential services. For its part, the Judicial Branch can and should seek new ways to deliver justice in more efficient ways that maximize judicial resources without compromising its core values. The Judicial Branch should also, whenever feasible, cease providing services not essential to the judicial process.

The Legislature should help relieve the burden on the Judicial Branch by reducing or eliminating some of its responsibilities. The Judicial Branch should assist the Legislature by providing recommendations for the elimina-

tion or change of functions not essential to the judicial process. At the same time, the Executive and Legislative branches must fulfill their responsibility to deliver stable and adequate funding for the courts, including the funding necessary to carry out new responsibilities. Without this commitment, staffing and resources will fall short, the courts will encounter greater difficulty in delivering justice, and all Iowans will suffer.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Funding 2.4, 3.2; Planning and Public Education 1.3, 1.5

### **3.4 Expand Training and Education — The Judicial Branch should expand training and educational opportunities for judges and other court employees.**

**Rationale:** Budget limitations within the Judicial Branch currently limit the ability of judges and other court personnel to obtain training or continuing education. Aside from limited federal grant funds, there is virtually no opportunity for judges and other court employees to pursue specialized continuing education, and the future of even limited federal grants is uncertain at best. In order for the public to be provided with high-quality performance of the Judicial Branch, all of its employees must be up-to-date on the law, sensitive to the needs of an increasingly diverse population, and adequately trained to commence and perform their duties and responsibilities. Because of their unique role in dealing with the public, district court clerk's office personnel should receive ongoing training and guidance regarding their roles and the unauthorized practice of law.

- **Implementation priority:** Short/medium-term
- **Related recommendations:** Administration 3.3; Planning and Public Education 1.8

**3.5 Strengthen Jury Service —** The Judicial Branch should work with the Legislature to make jury service as affordable, comfortable and convenient as possible in order to enable all citizens to carry out their constitutional responsibility and right to serve as jurors. This should ensure that juries consist of a representative cross-section of the community.

**Rationale:** All citizens should be able to fulfill their civic duty to serve as a juror when called upon to do so. The Commission's public opinion survey found that nearly a quarter of all respondents reported having served on a jury. However, a great number of Iowans have not participated in jury service because of the inconvenience and financial hardship it imposes.

Under current law and practices, jurors receive mileage reimbursement and \$10 in compensation for each day of service or attendance. This is not adequate for the time and resources citizens expend on jury service. Jury participation is inconvenient for many citizens, including those employed on a full-time basis, and the inadequate daily compensation makes participation too costly for many, such as the self-employed or those whose employers do not pay them during jury service. Such inconveniences and hardships discourage some citizens from participating, which results in jury panels that do not accurately represent the community from which they have been drawn. It also is important that jurors' experience be as positive as it can be made to be. If the jury experience is strengthened, it will attract a more representative cross-section of the population and allow the jury system to work at its best.

- **Implementation priority:** Short/medium-term
- **Related recommendations:** Administration 2.6; Planning and Public Education 3.3

## LEGAL REPRESENTATION

**4.1 Support Legal Services for Indigents — The Judicial Branch should encourage increased public and private support to provide legal representation to those who cannot effectively afford legal services.**

**Rationale:** The 1990s have demonstrated that the cost of legal representation for the poor in civil cases will not necessarily be borne entirely by the public. We encourage increased public and private funding of, together with private bar participation in, programs to serve the unmet legal needs of low-income Iowans.

In addition to better pro se (persons representing themselves) litigation programs, the Judicial Branch should cultivate broader and deeper partnerships with the private and the legal aid/poverty law bars to find more and effective ways to ensure that poverty will not be a barrier to equal access to justice. It is vital that the existing network of Legal Aid offices with experienced staff attorneys with knowledge of the legal needs of low-income people be maintained to provide direct service. This network is also critical to the coordination of the referral of cases to volunteer lawyers discussed in recommendation 4.2. There may also be a need to develop a system where the cost of the provision of legal services is made commensurate with the ability to pay. The Supreme Court may look to ways that its Commission on Lawyers Trust Accounts can obtain funding from new sources to fund programs for lawyer representation for the indigent and the working poor.

- **Implementation priority:** Short-term

**4.2 Promote Expansion of Volunteer Legal Services — The Judicial Branch should encourage more lawyers to provide volunteer legal services to those who cannot afford to pay an attorney but nonetheless need counsel in order to have access to justice.**

**Rationale:** Provision of no-fee legal services is consistent with the Iowa Code of Professional Responsibility for Attorneys. Iowa already has an excellent start to private bar involvement in pro bono programs through the volunteer

lawyer programs organized by the Legal Services Corporation of Iowa, Iowa State Bar Association and county bar associations. The court system in the 21st Century will have to be more proactive in urging members of the bar to participate in such programs. The court system should consider innovative solutions, such as the current referral system used by federal courts in Iowa, to encourage lawyer participation in providing legal services to low-income persons. Such leadership has proven effective in increasing lawyer involvement, for example, in recent efforts with some county bar associations to prosecute violations of domestic abuse protection orders.

- **Implementation priority:** Short-term

**4.3 Facilitate Legal Self-Representation — The Judicial Branch should develop educational programs designed to assist persons not represented by a lawyer, and adopt state-of-the-art systems that facilitate self-representation in appropriate cases.**

**Rationale:** The right of self-representation in legal tribunals is well-established in Iowa, as it is elsewhere. Throughout the country, pro se litigation is on the rise and seems inevitable. For some, financial necessity makes lawyers inaccessible; for others, disposable income is better spent elsewhere. Even those who embrace the right and inevitability of self-representation, however, acknowledge the problems associated with it. Litigants often do a poor job representing themselves, perhaps missing issues or controlling legal authority; they misunderstand the consequences of their lawsuits, such as the tax implications of divorce. Later litigation, at great cost, may be necessary to try to undo the harm caused by the first case.

Pro se litigation can also create burdens on already strained court systems. Pro se litigants require more time and assistance from court staff and judges than do lawyers adept at legal procedure. When court staff provide the help to unrepresented parties that due process may require, the unwary among them may fall into the trap of the unauthorized practice of law. Judges who spend more time with pro se litigants are susceptible to accusations that they have stepped out of their roles as impartial decision-makers.

Pro se litigation is a necessary corollary of a judicial system committed to equal access regardless of ability to pay.

Despite the difficulties associated with pro se litigation, a proactive court system cannot hide its head in the sand. It must anticipate that cases filed by parties representing themselves will only increase, as they have around the country. It must acknowledge that pro se litigation is a necessary corollary of a judicial system committed to equal access regardless of ability to pay. Most importantly, it must take the initiative by devising streamlined pro se programs so that the court, rather than the pro se litigant, controls the process. Such programs and procedures have already been developed to a certain extent in Iowa domestic abuse protection order cases. Model pro se programs in family law (and especially child support modification) are available in other states for Iowa's consideration. The elements of these programs include: a strong education and information component, where parties considering representing themselves in litigation are educated about the risks associated with it; uniform pleadings; neutral assistance completing the forms; and special screening and processing of cases. The court system should work with the bar to identify areas where information is needed to educate the public on pro se litigation and develop informational materials in easy-to-understand language to aid pro se litigants.

- **Implementation priority:** Medium-term
- **Related recommendation:** Technology 3.4

**4.4 Define Clerk Role in Legal Self-Representation — The Judicial Branch should clearly define the role of clerks of court in aiding self-help litigants, and support this role with appropriate education and legislation.**

**Rationale:** The Commission's focus groups clearly confirmed the fact that widespread confusion exists among Iowa's clerks of court as to their role, if any, in assisting litigants not represented by a lawyer in such areas as small claims, conservatorship and guardianship matters, collection procedures and other proceedings involving legal self-representation.

Iowa's clerks of court are justifiably concerned and afraid about their potential liability in interacting with "pro se" litigants. Unfortunately, such fear may lead to an air of tentativeness or perceived lack of responsiveness on the part of clerks in servicing the legitimate needs of these court users. The public would be much better served by clerks who are confident of their roles and unafraid of providing non-legal advice or services. Undoubtedly, job satisfaction among Iowa's clerks of court would also increase accordingly.

To this end, the Judicial Branch should clearly define the role and responsibilities of clerks of court in aiding self-help litigants. It should also develop and provide appropriate education and training for clerks as to appropriate guidelines and legal parameters of providing such assistance. Finally, it should support legislation necessary and appropriate to protect clerks of court from any liability arising from the provision of such authorized assistance.

- **Implementation priority:** Short/medium-term



## SUMMARY OF TEAM RECOMMENDATIONS

TEAM RECOMMENDATIONS		IMPLEMENTATION PRIORITIES				OTHER TEAMS' RELATED RECOMMENDATIONS
		Ongoing	Short Term (1-2 yrs.)	Medium Term (3-5 yrs.)	Long Term (6+ yrs.)	
<b>1. Multi-Option Justice</b>						
1.1	Administer Delivery of Justice	✓				
1.2	Establish Multi-Option Justice System			✓	✓	Planning 3.2
1.3	Establish Early Assessment System			✓		Planning 3.2
1.4	Set Standards for Dispute Resolution		✓	✓	✓	
<b>2. Access to Justice</b>						
2.1	Provide Access Points in Every County		✓	✓	✓	Administration 2.5; Technology 2.4, 2.5, 3.2, 3.4
2.2	Explore Expanded Venue			✓	✓	Administration 2.5; Technology 2.5
2.3	Eliminate Barriers to Justice		✓	✓	✓	
2.4	Ensure Safety and Security		✓			Technology 3.3
2.5	Promote User Satisfaction		✓	✓	✓	Administration 1.2, 4.1; Planning 1.3, 3.1, 3.3
<b>3. Quality of Justice</b>						
3.1	Retain Merit Selection of Judges	✓				
3.2	Evaluate Judicial Performance			✓		Administration 1.1, 3.4
3.3	Ensure Staffing and Resources		✓	✓	✓	Technology 1.3; Funding 2.5, 3.2; Planning 1.2, 1.4

3.4	Expand Training and Education		✓	✓		Administration 3.3, 3.5, 3.6; Planning 1.7
3.5	Strengthen Jury Participation		✓	✓		Administration 2.6, 4.1; Planning 3.3
<b>4. Legal Representation</b>						
4.1	Support Legal Services for Indigents		✓			
4.2	Promote Expansion of Volunteer Legal Services		✓			
4.3	Facilitate Legal Self-Representation			✓		Technology 2.4, 3.4
4.4	Define Clerk Role in Legal Self-Representation		✓	✓		

# Administration

## VISION STATEMENT

*In the 21st Century, Iowa has a court system that inspires public confidence and incorporates values of integrity, professionalism and fairness. Those who administer the system employ a management style that encourages teamwork and the highest ethical standards. Our court system celebrates valued traditions that promote respect for the institution, while being open to new ideas that serve the interests of all who seek justice.*

*Iowa's court system has clearly defined judicial and administrative responsibilities developed by or under the auspices of the Supreme Court. Professionally trained court administrators discharge clearly defined responsibilities within the organizational structure and have systems in place to facilitate communications horizontally and vertically at all levels. The span of authority is clearly defined, and allows flexibility for court system employees to make decisions at their level of authority.*

### Team Members

Co-Chairs:  
MacDonald Smith  
Marsha K. Ternus

Patrick B. Bauer  
Ann E. Brenden  
C. Gregory Buntz  
Cynthia P. Eisenhauer  
Loren L. Fligg  
Ann Jorgensen  
Debra McDonough  
E. Richard Meadows, Jr.  
Mary Lynn Neuhaus  
Don C. Nickerson  
Terry Penniman  
Roger T. Stetson

*The organizational structure is responsive to changing conditions—as reflected by the culture and values of Iowa's citizens—and accommodates alternative dispute resolution options. The Iowa Supreme Court oversees, monitors and assures the accountability of court system administration. The structure allows the judiciary to focus primarily on judicial matters, leaving administration to the administrative unit.*

*Highly skilled, culturally diverse court personnel provide information and services to the public. They understand what is expected of them, are mutually supportive, and are successful because they are sustained by continuous training, current technology, a healthy environment and flexible work options. This team-working environment*

*stimulates the exchange of ideas, best practices, and responsiveness to emerging issues at all levels of the system. Staff members have all the tools and resources needed to appropriately respond to the tasks and demands of their particular units.*

*A periodic review process determines the boundaries of the judicial districts, based on criteria specific to the demands made upon the system. The jury management system provides for economical, efficient and diverse jury selection, as well as the environmental and physical needs of jurors. Regular surveys are solicited from system users and the results are incorporated into the process to enhance the quality of the judicial process.*

*The Judicial Branch has a management system that fosters personal responsibility and collaborative problem-solving. Human resource policies provide rewards for continuous improvement, opportunities for advancement and compensation reflective of productivity. Human resources are allocated according to accurate work load data. Performance evaluations of all personnel, including judges, foster professional growth and development, and are tailored to job expectations.*

*Iowa has a paperless court system that allows for ready access to court services, court records, and other data through state-of-the-art technology. All court documents are filed, maintained and retained electronically. Historical records have been adequately preserved. Judges have easy access to court files in any court, and court data is electronically shared with other governmental agencies. All court personnel have access to legal research materials through libraries or electronic means. Judges are readily accessible to all citizens, either in person, as needed, or via electronic technology.*

*The Judicial Branch has established standards for court facilities and regularly monitors these to ensure that the public conducts its legal business in surroundings which enhance respect and confidence in the justice system. Court personnel and juries are housed in facilities that have adequate space; are modern, healthy, and safe; are appropriately equipped with audio and video equipment; are accessible to those with physical handicaps, hearing and visual impairments, and language barriers; and are appropriate to the importance of the proceedings conducted in them. Court services are provided in non-traditional manners and settings using state-of-the-art technology to enhance efficiency, economy and access.*

*“New frameworks are like climbing a mountain—the larger view encompasses, rather than rejects, the earlier, more restricted view.”*

*—Albert Einstein*

## RECOMMENDATIONS

### ORGANIZATIONAL CULTURE

**1.1 Internalize Core Values — The Judicial Branch should promote adherence to its core values, including ethical conduct, fairness, professionalism, and responsiveness by all personnel and users of the court system.**

**Rationale:** As noted in the Commission’s statement of values, a number of core values guide the courts in the fulfillment of their mission. These values are common to all democracies, but also reflect the unique role and contributions made by the courts in society. In Iowa, they include equal justice, quality of justice, fairness and impartiality, protection of the individual, independence, freedom from partisan politics, integrity, accountability, public trust, accessibility, affordability, timeliness and excellence.

Ethical conduct, fairness, professionalism and responsiveness should be hallmarks of the Iowa court system. Those involved in administration of the courts, as well as those directly involved in adjudication, can promote these values through their day-to-day approach to management. To the extent that this becomes an explicit expectation for administrators, and to the extent that they are held accountable for it, they will be more likely to do it. In addition, all users of the court system—including litigants, parties and their representatives—should be held to the same standards of conduct.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Delivery of Justice 3.2; Planning and Public Education 3.1

**1.2 Assess Public Confidence in Courts — The state court administrator should establish a system to regularly monitor public confidence in the court system and the degree to which its operations are consistent with core court values, including fairness, integrity and professionalism.**

**Rationale:** Public confidence in the courts and their ability to operate in concert with core values are essential for effective operation. Without public

confidence, the mission and functioning of the courts will be compromised. The Commission's public opinion survey showed that public perceptions of the courts, while generally favorable, vary somewhat regarding adherence of court operations to certain core values.

For example, while 69 percent of survey respondents agreed or strongly agreed that Iowa's judges serve the public as opposed to personal interests, only 40 percent agreed or strongly agreed that the courts do not let politics influence their decisions. While 79 percent agreed or strongly agreed that the courts in Iowa guarantee everyone a fair trial, the same percentage believed that celebrities, wealthy people, big business and politicians are treated better than other people by the courts.

This snapshot offers valuable insights that should help the courts assess their success in adhering to core values. However, in order to be truly useful, the courts must institutionalize the systematic gathering of such feedback. Similarly, public input should regularly be sought on how court procedures should be maintained, modified, eliminated or replaced in order for the court system to adhere to its core values.

Making regular institutional self-assessment part of the organizational culture of the courts and informing various constituencies that this is being done will increase public confidence and lead to continuous improvement in the administration of justice in Iowa.

The organizational culture of the Judicial Branch is just as important to court administration as its structure, personnel, and physical and technical resources. Symbols and traditions are elements of culture, and like other more tangible administrative factors, they should be regularly assessed. "Because we've always done it that way" should never be the sole rationale for continuing any practice.

- **Implementation priority:** Medium-term
- **Related recommendation:** Planning and Public Education 3.3

## ORGANIZATIONAL STRUCTURE

**2.1 Clarify Judicial and Administrative Responsibilities — The Supreme Court should clearly define and distinguish between judicial and administrative responsibilities and delegate appropriate policy and management authority accordingly throughout the state court system.**

**Rationale:** In recent years, a growing managerial burden has forced the Iowa judiciary to spend an inordinate amount of time handling administrative matters, leaving less time for performing its core judicial duties. During the Commission's focus groups, a number of judges expressed concern that they had less and less time to decide cases.

In order to partially address this problem, and to ensure that the state's judiciary has sufficient time to perform the core duties with which it is charged, the Supreme Court should define and delineate judicial and administrative roles and responsibilities, and delegate appropriate policy and management authority accordingly. Essentially, judicial and administrative functions should be separated, with the primary mission of administration being to serve the judiciary and court users in the most productive and effective manner possible.

During the Commission's interviews and focus groups with district court judges, district associate judges, magistrates, attorneys, court administrators, clerks of court, court reporters, and juvenile court officers, specific improvements were suggested that would address this problem. They are:

- Clearly defined responsibilities and delegation of authority from the Supreme Court to the state court administrator and throughout the state court administration system.
- Freeing up the judiciary to focus primarily on judicial matters, assisted by a strong court administrative system. Routine administrative matters, including human resources management, should be handled by court administrators.

- Procedural uniformity, with reasonable flexibility for local requirements, while encouraging the adoption of best practices, whether developed centrally or locally.
- Improved training and education, supplemented by improved communication throughout the system.

The court administration function should be under the direction of a strong state court administrator. The organizational structure should provide for the delegation of responsibilities from the Supreme Court to the state court administrator to the district court administrators. At each management level, from the state court administrator to the district court administrators, additional reporting responsibility should be directed to the appropriate judiciary member or body receiving administrative service to assure that timely, quality service is being provided.

The Supreme Court should remain the policy-making body for all administrative matters within the court system. Annual or semi-annual meetings should be conducted for court administrators to improve communication and to review and implement uniform procedures and best practices.

- **Implementation priority:** Medium-term

**2.2 Redefine Role of Judicial Council — The Judicial Council should serve as the liaison between the Supreme Court and judicial officers throughout the state, focusing its attention on policies and procedures which will enhance the adjudicative function of the courts.**

**Rationale:** Iowa's Judicial Council is composed of the chief judge of the Court of Appeals and each of the state's judicial districts, and is chaired by the chief justice of the Supreme Court. By statute, the Judicial Council advises the Supreme Court "with respect to the supervision and administration of the department." (See Iowa Code section 602.1202 (1995).) The chief justice bi-annually appoints chief judges based on their years of experience, leadership abilities, and demonstrated respect among their peers.

In recent years, as the administrative responsibilities and burdens placed upon Iowa's judiciary have increased, so too has the focus of the Judicial Council widened. Increasingly, the Council has been drawn into administrative and technical matters that extend far beyond the core duties of the judiciary. This ever-widening focus has blurred the role of the Council and reduced its effectiveness as an advisory body.

In order to address this issue, the current statute should be amended to redirect the focus of the Judicial Council to the courts' adjudicative function, leaving administrative issues to professionally trained administrators and the newly formed Administrative Council. (See Administration Recommendation 2.3 .)

The Judicial Council should assume its rightful role as both supervisor and advocate for the judicial officers serving in Iowa's eight judicial districts.

As a group, the Judicial Council is uniquely qualified to advise the Supreme Court on matters directly affecting the quality of the courts' adjudicative function, such as working conditions, caseloads, substantive educational needs, and interpersonal relations. Freed from the burden of routine court administrative assignments and personnel matters, the Judicial Council should assume its rightful role as both supervisor and advocate for the judicial officers serving in Iowa's eight judicial districts.

- **Implementation priority:** Medium-term

**2.3 Establish Administrative Council — The Supreme Court should establish an Administrative Council, consisting of the Chief Justice or designee, the state court administrator, representation from all levels of the court system, and lay persons to provide overall guidance for the continuous improvement of court administration.**

**Rationale:** Court administration is a significant and important responsibility of the Supreme Court. However, in an era of growing demands on the courts and increasing managerial complexity, the Supreme Court needs a more effective mechanism for delegating administrative authority and providing guidance in the overall administration of the courts. An Administrative

Council would serve as such a mechanism providing general policy and oversight for the administration of Iowa's courts.

The Administrative Council should be responsible for developing a mission, setting goals, and developing action plans for promoting continuous improvement in the court administration system. In addition, the Administrative Council should approve standards of performance, develop methods of monitoring and measuring performance, and resolve conflicts while maintaining a working environment within the court system that provides both the structure and flexibility to foster innovation and change where needed.

The Administrative Council should be composed of representatives from every area and level of court administration and the judiciary, as well as lay persons, to assure a balance of available perspectives and expertise. It should meet on at least a quarterly basis and additionally as deemed necessary.

- **Implementation priority:** Medium-term
- **Related recommendation:** Funding 3.5

**2.4 Establish Task Force on Trial Court Structure — The Supreme Court should appoint a task force to study the existing trial court structure and recommend any changes that would enhance the delivery of court services.**

**Rationale:** With the passage of the Unified Trial Court Act of 1973, the Iowa Legislature reformed the state court system by establishing a unified trial court known as the "Iowa District Court." Under this system, district court judges have general jurisdiction and are authorized to handle all types of civil, criminal, juvenile and probate cases. However, the system continues to include judges of limited jurisdiction, namely, magistrates, district associate judges, associate juvenile judges and probate judges.

The 1973 Act created part-time magistrate positions, ranging from one to six per county. Although a license to practice law is not required, the appointing commission must first consider licensed attorneys. Magistrates hold preliminary hearings and hear small claims (money judgments of \$4,000 or less),

simple misdemeanors, county and city infractions, lost property actions, emergency hospitalizations, and search warrant proceedings.

The Act also provided for 30 full-time magistrates. In 1981, these full-time magistrates were renamed district associate judges. The jurisdiction of district associate judges is the same as magistrates with the addition of indictable misdemeanors, operating-while-intoxicated felonies, civil cases up to \$10,000, and juvenile cases, if designated by the chief judge of the district. Finally, associate juvenile judges handle juvenile matters, including proceedings on delinquency, children in need of assistance, and termination of parental rights, and probate judges handle probate matters.

Clearly, the Iowa District Court remains a somewhat less-than-unified system. The time has come to address this fact by refining the overall structure of the trial court. There is, however, a genuine divergence of opinion as to how to proceed: by making the system more flexible or by instituting greater specialization. In one scenario, a more unified trial court system would allow for more flexibility because a larger pool of judges could exercise jurisdiction over all cases. In the other, additional specialized courts akin to Iowa's juvenile and probate courts with their own judges would be established. Regardless of which direction might be taken, the future delivery of court services depends on the clear delineation of the roles and responsibilities of every type of judicial officer.

Because the scope of such an undertaking is broad and requires the input of judicial officers and court users such as litigants, attorneys and law enforcement authorities, a task force would be best suited to bring together these different perspectives and identify ways in which court services could more effectively and efficiently be delivered. Options that might be considered include, but are not limited to, converting some or all judicial officers to district court judges, creating specialized courts, increasing the jurisdiction of magistrates and/or district associate judges, moving traffic matters to an administrative forum, using special masters for some matters, requiring that all magistrates be licensed to practice law, and providing more flexibility with respect to the geographical boundaries within which judicial officers must reside and perform their duties.

Focus group participants voiced a concern that substantial inequities existed among magistrates with respect to caseload and the number of hours worked. Any task force appointed to examine the trial courts should consider options that would remove such inequities.

- **Implementation priority:** Medium/long-term
- **Related recommendation:** Funding 2.5

**2.5 Evaluate District Boundaries — The state court administrator should periodically evaluate the administrative effectiveness of judicial district boundaries so that the Supreme Court may recommend legislative changes, when appropriate.**

**Rationale:** For all judicial purposes other than the selection of trial court judges, Iowa’s ninety-nine counties are divided into eight judicial districts. The selection of trial court judges occurs within fourteen judicial election districts encompassing all or part of each judicial district. Judicial officers and court employees can be assigned by the chief justice of the Supreme Court from “one judicial district to another, on a continuing basis if need be, in order to handle the judicial business in all districts promptly and efficiently at all times,” but district judges otherwise serve in the district of the judge’s residence while in office. District judgeships are allocated between judicial election districts on the basis of a formula which includes population, filings, and the locations of the seat of government and the state penitentiary. Vacancies are not filled if the number of judges in a district is greater than the number which the formula provides.

The initial establishment of judicial district boundaries may have reflected a range of relevant factors. With the passage of time, some of those factors (e.g., population, quantity and quality of case load) might change in ways which detract from the continuing utility of existing boundaries. Conversely, other factors (e.g., working relationships within and between bench and bar, nature and extent of travel required as of date of judge’s initial appointment) may evolve in ways which reinforce the importance of maintaining current boundaries. Some participants in the focus groups expressed concern that current district boundaries result in districts that have greatly disproportion-

Focus groups expressed concern that current judicial district boundaries result in greatly disproportionate work loads.

ate work loads, vary too drastically in the geographical territory covered, and do not coordinate well with the districts used by executive agencies with which the courts interact.

Accordingly, the various considerations that might support or oppose any changes in district boundaries ought to be evaluated through some established procedure at regular intervals (e.g., every ten years). The procedure should include input from all interested persons and groups (e.g., judicial personnel, county bar associations, court administrators) and result in a full assessment of the costs and benefits of current boundaries and those alternatives which might be possible either presently or at some future point in time.

- **Implementation priority:** Medium/long-term
- **Related recommendations:** Delivery of Justice 2.1, 2.2; Funding 2.5

**2.6 Improve Jury-Calling System — The state court administrator should identify how the process of summoning (or “calling”) jurors could be improved and made more efficient, and should implement improvements in a reasonable time frame.**

**Rationale:** By and large, Iowa’s current jury-calling system is outmoded, inefficient and ineffective. In many clerk of court locations across the state, the jury-calling process continues to be highly labor intensive. Manual procedures requiring repetitive steps—typing letters and envelopes, stuffing envelopes, preparing checks—continue to be the norm in most courts. These procedures take time and labor that could be devoted to other tasks. By reviewing the entire jury selection process, current practices could be streamlined.

A few courts in Iowa have automated the tedious process of jury calling with measurable success. Black Hawk County, for example, has automated its entire jury management system, from selection, to mailing of notices, to check writing and accounting. The new Black Hawk County jury-calling process is estimated to take one-tenth the amount of time as the old one, and was implemented at a very low cost. Tasks that once took weeks under the

manual system now take only a few hours. Overall benefits have been significant.

An effective jury-calling system should be implemented in other courts. Automated and uniform jury management systems could provide significant cost- and time-savings statewide. More efficient jury selection is also likely to increase diversity, making juries more representative of Iowa's population as a whole, as called for in 1993 by the Supreme Court's Equality in the Courts Task Force.

- **Initiate implementation:** Short-term
- **Related recommendations:** Delivery of Justice 3.5; Planning/Public Education 3.3

**2.7 Establish Administrative Review Process — The Judicial Branch should establish a mechanism for periodic review of trial court, appellate court, and administrative practices, procedures, rules, programs, and organizational structures to identify changes that improve the quality of service, control costs, streamline procedures, and promote access.**

**Rationale:** Efficient utilization and internal reallocation of resources will become critical in the future. The courts should create mechanisms for: (1) ongoing self-evaluation of the system to find ways to improve the quality of service, control costs, and streamline procedures; (2) continuing reassessment of priorities, methods, practices and procedures; and (3) reallocating resources to priorities. Change should be viewed as creating opportunities to improve service. Engaging in organizational change should become a feature of court administration.

Rules of procedure should be reviewed not only from a legal viewpoint, but also to look for system efficiencies.

The Judicial Branch should take full advantage of the benefits of state funding—system uniformity, economies of scale, and shifting resources to areas where they are most needed. This should be done on a statewide, not just district-wide basis. Leadership for these changes should come from the

Supreme Court and from chief judges, as well as from state and district administrators.

- **Implementation priority:** Medium-term

**2.8 Analyze Work Loads — The State Court Administrator should conduct periodic work load analyses to determine that task responsibilities are specific and clearly assigned in order for the court system to operate in the most efficient and effective manner.**

**Rationale:** Current lines of authority and responsibility need to be re-evaluated and made more efficient. For example, should clerks of court report to their district court administrator rather than their chief judge? Should court reporters report to individual judges or be available for assignment to any judge when they are not involved in work for their principal judge?

Current work load analysis is not uniformly administered and does not properly reflect the complexity of various types of situations. Uniform measurement procedures should be designed, and regularly updated, to reflect complexity and provide accurate work load data. This information should then be used as a guide in assigning work and measuring performance for both judicial and administrative personnel.

- **Implementation priority:** Medium-term
- **Related recommendation:** Funding 2.5

**2.9 Institute Best Practices — The state court administrator should identify the best administrative procedures and should have the authority to implement such procedures statewide.**

**Rationale:** Procedures, including purchasing, record storage and retrieval, and collection of fees and fines, could be made uniform throughout the system while still empowering employees at the local level to be flexible in meeting the needs of court users.

Teams established to look at best practices should be empowered to design forms and to simplify and standardize court processes and systems in ways that will benefit all system stakeholders.

- **Implementation priority:** Short-term
- **Related recommendation:** Funding 2.6

## HUMAN RESOURCES

### **3.1 Promote Workforce Development and Diversity — The Judicial Branch should recruit and retain a highly-skilled, culturally-diverse work force, and explore nontraditional labor sources.**

**Rationale:** If the court system is to thrive as a service-oriented system, its providers must be highly skilled in their jobs and paid a salary commensurate with their skills. The existence and potential for developing skills applicable to a particular job should be identified and sought in the application process. After a provider has been hired, the development of those skills through ongoing training and educational opportunities should be a priority.

The Equality in the Courts Task Force called for gender and racial diversity in court personnel. The same need was identified in some of the focus groups. Recommendations to increase diversity implemented by the Supreme Court in response to the Equality in the Courts Task Force should be continued.

Non-traditional labor sources should also be tapped, including persons who have the requisite skills to perform necessary duties but who may not be able to work traditional hours or in traditional locations; i.e., caretakers of children at home, ill or disabled workers, and persons who have retired from active practice, business, or other job services. The option of flexible hours, suggested by focus group participants, may also attract persons who could not work a traditional schedule.

- **Implementation priority:** Short/medium/long-term

### 3.2 Encourage Participatory Management — The Judicial Branch should encourage participatory management at all staff levels.

**Rationale:** The current organizational structure of the Judicial Branch must change dramatically by 2020 to meet the increasing demands and higher expectations of court users. The current top-down organizational management structure based on the industrial model (one-worker, one-task) should be replaced with a flattened organization of multi-talented workers.

The adoption of participatory management will allow the Judicial Branch to become more flexible and proactive, addressing problems as challenges and

seeing successful results. This environment encourages appropriate involvement of all levels of staff in the decision-making process.

Accountability is the key. Thus, responsibility should be placed with the people doing the job. Managers should spend more time coaching and assisting and less time controlling. With participatory management in place, self-directed work groups can operate at all levels of the Judicial Branch.

The quality of court management, court performance and court system responsiveness can also be improved by allowing those who receive court services, as well as those who provide court services, to participate in the decision-making process, when appropriate. The

Administrative Council called for in Administration Recommendation 2.3 is an example of this model of management.

- **Implementation priority:** Short-term
- **Related recommendations:** Planning and Public Education 1.6, 1.7

### 3.3 Foster Innovation Through Training — The Judicial Branch should encourage workplace innovation by providing all personnel with training designed to ensure access to current and emerging trends in judicial functions, court administration, and related technology.

**Rationale:** Many of the practices and procedures currently used in the Judicial Branch were developed decades ago in an environment fundamentally different from that experienced by court personnel and users today. Although court personnel often recognize the need for change, the burden of

The adoption of participatory management will allow the Judicial Branch to become more flexible and proactive, addressing problems as challenges and seeing successful results.

daily work leaves no opportunity for innovative ideas to blossom. This recommendation recognizes that those involved in case adjudication, court administration and related technology must have access to best practices and new ideas as the Iowa judicial system responds to new challenges. To facilitate innovation, the Judicial Branch must provide training and development opportunities to all employees. Such opportunities would acquaint employees with standard and more effective ways to do business, including developments in technology and management systems. Training and education of court personnel would also have the beneficial side effects of improving efficiency and morale and fostering professional growth.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Delivery of Justice 3.4; Funding 2.6; Planning and Public Education 1.7

#### **3.4 Evaluate Employee Performance — The Judicial Branch should maintain a performance evaluation system for all court personnel, including judges.**

**Rationale:** Properly developed systems for performance evaluation should help to ensure the effectiveness of the court system in all respects. More importantly, performance evaluations should help all court personnel to become aware of ways in which they might be able to discharge their responsibilities more proficiently.

Both of these functions require the collection of information that is fair and accurate and used in constructive ways. Court personnel perform a range of complicated tasks that are not easily measured, and many of those tasks produce outcomes which may cause one or another of the participants to be substantially displeased. While these circumstances must be reflected in any appropriate system of performance evaluations, they should not stand as an absolute barrier to the collection of relevant information which quite appropriately might include the views of various persons who use or are directly affected by the court system (e.g., attorneys, civil litigants, criminal defendants, witnesses and jurors).

Evaluations of the performance of judges will have to be carefully structured to preserve judicial independence and fairness. The relevant measures of a judge's performance do not include popularity, and social and professional customs properly constrain some of the channels through which judges might learn about the quality and consequences of their official actions. Reliable and appropriate avenues of feedback, however, may enable judges to perform their duties in ways which will increase the effective functioning of the court system.

An employee evaluation system promotes professional growth, ensures that employees understand and remain focused on established procedures and expectations and on set goals and objectives, thereby enabling court administration to accomplish its mission. Consistent with this purpose, the components and results of performance evaluations should be treated as confidential information that would ordinarily be available only to the person being evaluated and the person responsible for preparing the evaluation.

- **Implementation priority:** Medium-term
- **Related recommendation:** Delivery of Justice 3.2

**3.5 Promote Job Satisfaction — The Judicial Branch should adopt personnel policies that are sensitive to the needs of employees and encourage personal growth, individual responsibility, teamwork, and a high level of productivity.**

**Rationale:** It is a recognized fact in business and other professional services that the level of job satisfaction experienced by service providers will be reflected positively in the quality and quantity of their services. Job satisfaction is generally measured in terms of the degree to which an employee's needs are identified and recognized, the employer's responsiveness to those needs, and opportunities for growth and reward within a particular job. Growth and reward can encompass many factors: monetary compensation (raises); enhancement of job position (promotions); increased levels of responsibilities commensurate with job expectation; educational opportunities (including participation as both a student and teacher); committee memberships; and other non-monetary rewards.

Safe, efficient and modern workplaces play an important part in keeping employees productive. The Judicial Branch should set standards and methods to provide good work environments. The courts should work cooperatively with other officials in this area. (See Administration Recommendation 4.1.)

- **Implementation priority:** Short-term
- **Related recommendations:** Delivery of Justice 3.4; Planning and Public Education 1.6, 1.7, 2.2

### **3.6 Reward Employee Performance — The Judicial Branch should examine ways to reward good service by all court personnel.**

**Rationale:** Dedicated and hard-working judges and staff are one of the greatest strengths of the court system. Competitive compensation is key to the recruitment and retention of top-quality personnel.

Judicial salaries are set by the Legislature. The Judicial Compensation Commission makes recommendations to the Legislature concerning the compensation of judges. However, the Legislature does not have to set compensation at the levels recommended by the commission.

State law requires that salaries of state employees be based on the concept of comparable worth. The Judicial Branch has an employee pay plan that sets a range of compensation for each type of position based on comparable worth studies.

State government should offer new ways to reward judges and employees who are not eligible for merit increases. Bonuses, extra vacation days, educational opportunities and sabbaticals are a few examples of the rewards that could be used to recognize good service.

- **Implementation priority:** Medium/long-term
- **Related recommendation:** Delivery of Justice 3.4

## PHYSICAL AND TECHNICAL RESOURCES

**4.1 Develop Standards for Court Facilities —** The state court administrator should develop reasonable standards to ensure that all trial court facilities include adequate office space for judges, staff and court users, have security for the personal safety of court users and personnel, and have comfortable and appropriately furnished facilities for jurors and participants. All facilities should reflect the dignity and importance of the proceedings.

**Rationale:** Facilities for judges, staff and jurors vary appreciably from county to county, creating a disparity in the quality of justice delivered dependent upon location. Juries are an essential element of the judicial system. Jurors who are attentive and comfortable during trial will be better able to perform their fact-finding function. Further, adequate courtroom facilities and office space for judges and their staff will better enable judges to maintain a uniform standard of delivery of justice, consistent with the expectations of parties and the public who seek a high quality of justice. To this end, the Judicial Branch, in consultation with the counties, should develop reasonable minimum standards for court facilities.

Focus group participants frequently identified inadequate facilities as a weakness of the court system that should be addressed.

- **Implementation priority:** Medium/long-term
- **Related recommendations:** Delivery of Justice 2.5, 3.5; Technology 3.2, 3.3

**4.2 Study Central Administration Space Needs —** The Supreme Court should study its long-term, central administration space needs and make recommendations to the Legislature to ensure that all personnel are housed in adequate facilities.

**Rationale:** State-level functions of the Judicial Branch are currently housed in separate facilities. The Supreme Court, the Court of Appeals, the clerk of the Supreme Court, the state court administrator and part of the state court administrative staff are located in the State Capitol. The administrative staff responsible for the technological needs of the Judicial Branch was recently

moved from the Capitol to an office building north of the downtown business district. The staff for the Supreme Court Commission on Continuing Legal Education, the Client Security Fund and the Grievance Commission is located in separate facilities a few blocks west of the Capitol. It is apparent that any additions to the state court administrator's office or the Court of Appeals will require the Judicial Branch to locate additional personnel outside the Capitol complex. No long-term study of the space needs of the state-level functions of the Judicial Branch has been undertaken in recent years. Space needs are addressed on an ad hoc basis.

In addition to the lack of a convenient, integrated physical facility for the Judicial Branch, the space devoted to the Judicial Branch in the Capitol is inadequate. Although offices for the Supreme Court justices as well as the courtroom and conference room are ample, other needs remain unmet. Some offices for the Court of Appeals judges lack privacy. No office space exists for Supreme Court judicial law clerks, resulting in inefficient productivity during court week when all clerks are in Des Moines. Adequate space for the Supreme Court law library is a problem; the Court recently boxed all case reporter systems predating 1975. The remaining books are scattered throughout two floors and more than 13 different rooms, making research unduly time-consuming.

- **Implementation priority:** Short/medium-term

**4.3 Develop Records Management System — The state court administrator should develop and implement a consistent, statewide plan for records management and retention, including a review of and recommendations regarding statutory requirements relating to this problem.**

**Rationale:** The court system collects and generates a wide range and immense volume of documentary materials. Focus group participants repeatedly cited problems in the storage of these materials. Tours of county courthouses and interviews of court personnel confirmed the inadequacy of current storage practices. The state court administrator's examination of record retention and storage should include consideration of the form in which documents are stored as well as the location in which they are stored.

Court documents have historically been generated and retained on paper. Some effort has recently been made to transfer court records to other media (e.g., microfilm, CD) for purposes of long-term storage. With evolving technologies, however, both the generation and retention of judicial records increasingly may be accomplished through various electronic means.

Some of these materials are essential to the processing of open matters but of little consequence thereafter. Others may be of some ongoing importance for an extended period of time after a matter has been concluded, but eventually can be safely discarded. Still other materials are of permanent importance and ought to be retained indefinitely.

Because it historically was county-based, the court system presently holds its records in or near county courthouses and retains them under standards and through means which may vary in practice from place to place. Although this arrangement sometimes has the advantage of allowing relatively quick access to extremely old records, it frequently involves either the occupation of precious space within county courthouses or the use of sometimes unsuitable off-site locations. The existing diversity of approaches to records management also complicates attempts to obtain information from existing records or to develop more efficient systems for their generation, use, and retention. Finally, although the present arrangement generally has an understandable and often appropriate preference for retention, the development and implementation of appropriate standards for the elimination of unnecessary records is greatly complicated by differences between the individual circumstances of the various counties.

Serious consideration should be given to the establishment of a central facility for the maintenance of materials from concluded matters that need to be retained for any substantial period of time. Centralizing the preservation of judicial records would immediately address issues of storage space and retention standards, and also may eventually lead to increased levels of coordination in ways in which such records are initially generated and actively used.

If central record storage is implemented, the elimination of unnecessary materials at the county level prior to transfers to the central facility and any additions to or subsequent elimination of materials by the central facility should only occur in accordance with protocols that have been developed in consultation with representatives of the various users of judicial records (e.g., law enforcement and correctional agencies, tax authorities and credit agencies, individuals and entities interested in real estate and probate matters, historians and genealogists). Furthermore, although some increase in cost and delay in time may be unavoidable, efforts should be made to preserve reasonable access to materials that must be retrieved from the central facility.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Technology 2.1, 2.6

**4.4 Enhance Access to Legal Research — The Judicial Branch should make maximum use of limited legal research resources through the use of new technologies and strategic location of access points to legal research materials. The state court administrator should provide all judges and law clerks electronic access to legal research materials.**

**Rationale:** Iowa's trial courts have primarily depended on county law libraries for legal research materials. Maintenance of law libraries is not specifically mentioned in the Iowa Code sections that set out court funding responsibilities of the state and counties. (See Funding Recommendation 1.1.) Recent constraints on county budgets have caused some counties to reduce or eliminate spending on county law libraries. In addition, problems exist at both the trial and appellate court level with respect to adequate storage for books.

Partnerships between state and local bodies should be encouraged because local officials depend on up-to-date legal research materials to competently perform their duties. Cooperative efforts would help avoid duplication of research materials, encourage sharing, and control costs.

The State Law Library should be included in these efforts. The State Law Library has an extensive collection of legal research materials not available in

county law libraries and so is central to coordinating the delivery of legal information. Although the State Law Library is an invaluable resource for the public, one of its primary missions should be to serve judges and other government officials.

As caseloads grow and disputes become more complex, judges will need faster access to a wide range of legal information. In addition to the efforts discussed above, judges and their law clerks will benefit from electronic access to legal research materials. Establishing electronic access will ensure that all judicial officers have convenient access to high-quality reference materials and will reduce the need to maintain storage facilities for books.

#### **Success Story: Electronic Legal Research**

By the end of August 1996, judges and law clerks throughout Iowa will access electronic legal research via CD-ROM towers installed in each judicial district and at the State Capitol. This new system, which takes advantage of Iowa Court Information System e-mail to link judges to the towers, was piloted in the Sixth Judicial District. Training for personnel in other locations will begin in June 1996.

County law libraries have traditionally served as a resource for the legal community and sometimes for the general public. To the extent that economic resources are focused on electronic legal research, the quality and quantity of materials available to the legal community and the public in county law libraries may diminish. The Supreme Court should establish a task force to study the feasibility of providing the legal community and the public with convenient access to publicly funded legal research materials.

- **Implementation priority:** Short/medium/long-term
- **Related recommendation:** Technology 2.4

**4.5 Encourage Use of Communication Technology — The Supreme Court should encourage the use of audio and video technology to safely, efficiently and effectively conduct court proceedings without sacrificing the due process rights of litigants. Current methods of recording and transcribing court proceedings should be studied to determine the most cost-effective and efficient means to ensure a prompt and reliable record.**

**Rationale:** Court time and resources can be more efficiently used by encouraging parties to make use of current technology to conduct hearings of routine matters. For example, a 15-minute dispositional review hearing of a Davenport teenager in a residential facility in Sioux City could be held by telephone rather than having a court officer or Department of Human Services worker spend 12 hours transporting the juvenile to and from the hearing site. Telephone hearings would also enable professionals such as psychologists and teachers to participate without leaving their offices, resulting in a savings of both time and money.

In selected counties video proceedings have been successfully implemented, allowing for bond review hearings, initial appearances, pre-trial conferences and arraignments without the security risks of having to transport jailed defendants. Conducting proceedings by video also lessens law enforcement time and travel.

As technology expands and improves, ways of recording proceedings should become more cost-efficient and reliable. Any adjustments to or changes in how court proceedings are recorded should make appropriate adaptations in the responsibilities of affected personnel.

- **Implementation priority:** Medium-term
- **Related recommendations:** Technology 1.1, 1.4, 3.1, 3.5



## SUMMARY OF TEAM RECOMMENDATIONS

TEAM RECOMMENDATIONS		IMPLEMENTATION PRIORITIES				OTHER TEAMS' RELATED RECOMMENDATIONS
		Ongoing	Short Term (1-2 yrs.)	Medium Term (3-5 yrs.)	Long Term (6+ yrs.)	
<b>1.</b>	<b>Organizational Culture</b>					
1.1	Internalize Core Values		✓	✓	✓	Delivery 3.2; Planning 3.1
1.2	Assess Public Confidence			✓		Planning 3.3
<b>2.</b>	<b>Organizational Structure</b>					
2.1	Clarify Judicial and Admin. Responsibilities			✓		
2.2	Redefine Role of Judicial Council			✓		
2.3	Establish Administrative Council			✓		Funding 3.5
2.4	Establish Task Force on Trial Court Structure			✓	✓	Funding 2.5
2.5	Evaluate District Boundaries			✓	✓	Delivery 2.1; Planning 3.3
2.6	Improve Jury Calling System		✓			Delivery 3.5; Planning 3.3
2.7	Establish Administrative Review Process			✓		
2.8	Analyze Work Loads			✓		Funding 2.5
2.9	Institute Best Practices		✓			Funding 2.6

3.	Human Resources					
3.1	Promote WorkForce Dev. and Diversity		✓	✓	✓	
3.2	Encourage Participatory Management		✓			Planning 1.6, 1.7
3.3	Foster Innovation Through Training		✓	✓	✓	Delivery 3.4; Funding 2.6; Planning 1.7
3.4	Evaluate Employee Performance			✓		Delivery 3.2
3.5	Promote Job Satisfaction		✓			Delivery 3.4; Planning 1.6, 1.7, 2.2
3.6	Reward Employee Performance			✓	✓	Delivery 3.4
4.	Physical and Technical Resources					
4.1	Develop Standards for Court Facilities			✓	✓	Delivery 2.5, 3.5; Technology 3.2, 3.3
4.2	Study Central Administration Space Needs		✓	✓		
4.3	Develop Records Management System		✓	✓	✓	Technology 2.1, 2.6
4.4	Enhance Access to Legal Research		✓	✓	✓	Technology 2.4
4.5	Encourage Use of Communication Tech.			✓		Technology 1.1, 1.4, 3.1, 3.5

# Technology

## VISION STATEMENT

*In the 21st Century, Iowa's courts, due to expanded use of technology, are more accessible and user-friendly with more legal matters made routine. Users are able to access information and file documents 24 hours a day, which has greatly increased the speed of the legal process. Electronic access to public data and codified law, court rules and decisions, along with explanations, is gained from homes, offices, schools and public-access kiosks in the courthouse and other public facilities. Technology allows courts to more efficiently and reliably locate and notify parties, witnesses, heirs, jurors and other participants; it also has facilitated pro se access to court services.*

*Courthouses, which continue to be important visual symbols of justice and self-government, have been retrofitted for technology. Clerk of court offices provide kiosks for routine access to the law and records, and assist pro se litigants and other users. Round-the-clock access to law and records is available by remote computers and kiosks. Courtrooms are used for trials, fact-finding hearings, alternate dispute resolution, and as down-link sites for community education and other functions.*

*Judges' offices are used to present orders in person, to present orders electronically to judges located elsewhere, and to allow judges to be "telepresent" in other counties.*

*Technology has dramatically improved court administration in Iowa, significantly benefiting all participants in the judicial process. Accelerated scheduling facilitates equal access and speedy resolution of disputes. Lawyers and litigants have electronic access to dockets to follow their cases better. Automation has enhanced time standards for handling cases, with processing and disposition accomplished within acceptable time frames. Automated notification facilitates the dissemination of essential documents to court participants. Court administrative staff members are able to compile detailed statistical information on the nature and disposition of cases.*

### Team Members

#### Co-Chairs:

David D. Beckman  
Mark Haverland

Charles R. Coulter  
Nancy Draper  
John D. Edwards  
Merry C. Ford  
Michael Gartner  
Ann Hailey  
Norma Hirsch  
Larry Murphy  
Glenn L. Norris  
Charles H. Pelton  
Midge Slater

*Communication between lawyers and judges has improved because of instantaneous video conferencing.*

*Security for court users and personnel has been increased while maintaining the dignity of the courts. The security and integrity of electronic information are essential elements of the system, and since key security concerns for records have been addressed, there is greater openness in the court system, and citizen owners enjoy greater access.*

*Routine functions of the law practice and court administration have been automated, allowing judges to devote more time to fact finding and dispositive decision-making, and lawyers more time to advocate in court, mediate client problems, and counsel clients. Judges and lawyers have become better students of the law because of their improved ability to pinpoint applicable law electronically. Cases involving undisputed facts are handled through user-friendly electronic kiosks, freeing up judicial time. The cost of legal services has been reduced. Lawyers have access to better sources of electronic information in support of innovative theories and solutions, and judges have improved their ability to evaluate them. Judges and lawyers have developed new skills to make better use of available technology.*

## GUIDING PRINCIPLES

We seek a system in which . . .

- Court users are active participants in the judicial process.
- Local court access is enhanced, not curtailed.
- Courts are responsive to users, their needs, and desires.
- Technology is proven and reliable.
- Technology emphasizes quality, not quantity, of information.
- Technology honors but does not destroy tradition.

We also recognize that technology . . .

- enhances but does not replace
- prepares but does not decide
- simplifies the routine, but not the unusual
- and shackles as much as it frees.

## RECOMMENDATIONS

### USE OF TECHNOLOGY

**1.1 Establish Court Technology Advisory Committee —** The Supreme Court should establish a Court Technology Advisory Committee, drawn from both the public and private sectors, to advise the court on an ongoing basis on the application of technology to operations throughout the Judicial Branch.

**Rationale:** With increasing caseloads and limited resources, Iowa's courts will continue to look to new technology for solutions. At the same time, the incredibly rapid rate of change in technology will place great pressure on the system to remain up-to-date. Iowa's Judicial Branch needs to tackle technological issues in an open, informed manner; therefore, input and advice from outsiders are critical necessities.

Members of the Court Technology Advisory Committee should be appointed by the Supreme Court and selected for their experience, expertise or special interest in technological issues. They should be drawn from both the public and private sector, including the Judicial Branch, other state agencies, national court organizations, businesses, and information technology groups. Some members should be thoroughly familiar with the technologies used by the Judicial Branch, others should represent competing and innovative technological solutions. The membership should be changed regularly.

The Committee should conduct regular reviews of the technological progress of the Judicial Branch and report its findings directly to the Supreme Court. Committee members should be free to praise or to criticize the technology used by the courts, as well as to make suggestions for the implementation of new technologies, where appropriate. Judicial Branch employees should be encouraged to communicate with Committee members.

- **Implementation priority:** Short-term
- **Related recommendations:** Administration 4.5; Funding 3.5

**1.2 Conduct Ongoing Evaluation of ICIS — The Court Technology Advisory Committee should conduct an ongoing evaluation of the Iowa Court Information System to determine its suitability for current needs and adaptability to future demands for a comprehensive electronic court information system, including data filing, storage, sharing and linkages identified as necessary by this Commission.**

**Rationale:** If the court system is to provide adequate services to the public, ready access to information currently stored in various forms and databases will be a necessity. Court records should be easily accessible in electronic form by court personnel and the public. The common thread among these goals is the need for a solid, uncomplicated, adaptable database system.

During the Commission's focus groups, current users of Iowa Court Information System (ICIS) software commented that the current system has severe limitations in its ability to provide access to meaningful information. These users also complained about the lack of a user's manual and "bugs" in the system. A determination should be made relatively quickly as to whether (1) the current software is adequate to serve immediate needs, and (2) the current program has been constructed so as to be adaptable to advances in technology and increased expectations of its function.

The Court Technology Advisory Committee should also explore the viability of public access to court data by means of web browsers in Hyper Text Markup Language (HTML—the "language" of the World Wide Web).

- **Implementation priority:** Short/medium/long-term

**1.3 Allocate Adequate Technology Funding — The Legislature should appropriate adequate funding for court technology in a timely manner to ensure the efficient and effective implementation of new capabilities. Should projects not be fully and timely funded, the Judicial Branch should redesign them consistent with available funding.**

**Rationale:** If technology is going to be a help, not a hindrance, to the Judicial Branch as it copes with the dramatic increase in court caseloads projected into

the 21st Century, adequate funding must be available.

In order for the court system to use technology effectively, it must take advantage of technological windows of opportunity.

Moreover, in order for the court system to use technology effectively, it must take advantage of technological windows of opportunity in a timely fashion. Technological projects generally are not scaleable. Therefore, should the Legislature fail to fully appropriate the funds necessary for a court technology project—or defer funding to a later date—the project must be re-evaluated and redesigned in light of the fiscal realities. Different technologies and/or vendors may be more appropriate if the original project cannot be fully funded. Likewise, if the deferment period is significant, the project should be redesigned to utilize the technologies that will be available at the later date and that fit with the new budget.

- **Implementation priority:** Short/medium/long-term
- **Related recommendation:** Delivery of Justice 3.3

**1.4 Evaluate Impact of Technology — The Judicial Branch should carefully evaluate the impact of technology on the delivery of justice and establish appropriate policies to promote the optimal use of these technologies consistent with due process.**

**Rationale:** It would be easy to use technology to greatly increase the efficiency of Iowa's courts. However, justice and fairness might be sacrificed in the process. For that reason, standards are necessary to protect the rights of all who participate in the judicial system. Following consultation with the Court Technology Advisory Committee and the commissioning of appropriate studies, the Judicial Branch should establish standards for the use of technology during court proceedings and in courtrooms.

Some members of this Commission believe that the use of video technology for remote court proceedings in criminal cases could favor the prosecution. Standards should be set for such details as the size and resolution of video monitors, audio quality, and the layout of the courtroom or transmission site. Provision must be made to permit defendants in all such settings to communicate privately with their attorneys.

A determination should be made as to which, if any, criminal hearings or proceedings are suitable for remote technology, and standards set accordingly. Whereas many members of the Commission thought that remote video technology could be appropriately used for the signing of court orders, initial hearings, post-conviction proceedings, and parole revocation hearings, they expressed concern about its use in trials—particularly jury trials—because it is their belief that the constitutional protections offered by the “confrontation clause” require that defendants have the right to confront their accusers in person and face-to-face.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Administration 4.5; Planning and Public Education 2.1

## DATA AND INFORMATION

**2.1 Evaluate Public Records Retrieval — The Judicial Branch should carefully evaluate and respond to the impact of technology on the retrieval of public records, particularly with regard to cost, ease of access, and due process.**

**Rationale:** By 2020, public records throughout Iowa that once were hidden away in courthouse storerooms likely will be readily available on-line. The information sharing that will result from such access will dramatically affect the everyday lives of citizens, influencing their ability to borrow money, obtain insurance, buy a home or get a job.

Given this reality, after thoroughly studying the law and the records under its control, the Judicial Branch should develop guidelines for the classification of public records and those for which privacy must be preserved.

During the Commission’s focus groups, a recurring question asked by clerks of court was “What constitutes a public record?” Therefore, once guidelines have been developed, clerks of court and other appropriate court personnel will need training to help facilitate access to public records and to avoid confusion over whether a record is public or not. All documents determined

to be public records should be made available to anyone who comes to the clerk's office, operates a kiosk, or seeks the information on-line.

- **Implementation priority:** Medium-term
- **Related recommendation:** Administration 4.3

**2.2 Participate in Development of Statewide Database — The Judicial Branch should participate in the development of a comprehensive, statewide database encompassing court records, Iowa statutory law, regulations, court decisions and other information relevant to users of the Iowa court system.**

**Rationale:** Members of the public who seek basic court and court-related information are often required to visit courthouses and/or state agencies in person or contact them by mail. The use of technology could provide the opportunity for access to and retrieval of a broad range of court and legal information for which a variety of sources now have to be consulted.

Development of a comprehensive court database would allow, for example, statewide on-line searches for information (such as judgments and liens), as opposed to the separate examination of records in all 99 counties. Such a database needs to be prepared in a common, non-proprietary format so as to accommodate other systems and any changes in technology and/or vendors. The format should store for retrieval both the text and the image of documents.

Electronic access to court information could save users significant time and energy; however, appropriate guidelines must be formulated to protect legitimate security considerations if the information falls within a protected category.

- **Implementation priority:** Medium-term
- **Related recommendation:** Planning and Public Education 1.4

### **2.3 Share Database with State Agencies — The Judicial Branch should develop a coordinated database that can be shared electronically with state agencies.**

**Rationale:** As a co-equal branch of government, it is important that the Judicial Branch be networked with state agencies, many of whom court personnel interact with on a daily basis. At present, court records and related information (e.g., criminal and corrections records, support payment records, other agency records) are maintained by various state entities at different locations. As a result, judges, particularly at the district court level, often are forced to make decisions without the opportunity for access to all pertinent information on parties appearing before them. Development of a database of court and court-related information that is available electronically will ensure that courts—prior to making decisions—can review relevant information.

- **Implementation priority:** Short/medium/long-term.
- **Related recommendation:** Funding 3.3

#### **Success Story: Criminal Justice Information Network**

A project is underway in Iowa's Fifth Judicial District to provide district associate judges with ready, electronic access to information on criminal defendants who appear before them. The Criminal Justice Information Network (CJIN) will link the scheduling and case management databases of the Iowa Court Information System with those of the Department of Corrections and county jails. Judges will be able to obtain up-to-date information on a defendant's status, including charges, warrants, bail, probation and release.

### **2.4 Create 24-Hour Court Information Retrieval System — The Judicial Branch should develop an information retrieval system accessible to the general public and specific users of the courts 24 hours a day from multiple access points throughout the state and other remote locations.**

**Rationale:** Currently, Iowans get access to most court information and records by going to a courthouse. As the future brings increased public expectation and demand for greater and easier access to public records, more

and more citizens will want the ability to obtain court information and records—at any hour of the day—from their homes, businesses, law offices, schools, remote kiosks and other access points outside the courthouse. Establishment of an information retrieval system accessible around the clock could enable users, for example, to check the status of a case, including the schedule and docket, or find out when they are to report for jury service. The Judicial Branch must be ready to provide court users with the enhanced access they seek.

Such electronic access should reduce the number of people who visit clerks' offices, and partially relieve the lack of staffing at those locations. However, just as automatic teller machines have not replaced financial institutions, kiosks and remote access will not replace clerks' offices. There will be individuals who will be unable to access public records electronically, just as there will be information not suitable for electronic access. In such instances, a visit to the clerk's office will still be necessary.

- **Implementation priority:** Medium-term
- **Related recommendations:** Delivery 2.1, 4.3; Administration 4.4; Funding 1.6; Planning and Public Education 3.6

#### **Success Story: Electronic Bulletin Board**

The Iowa Supreme Court has installed an electronic "bulletin board" to make appellate opinions immediately available to publishers, media, and the public. As opinions are released, Iowa Court Information System staff download them into a computer dedicated for this purpose and accessible by modem at (515) 281-9769. ICIS staff see this as a first, but important, step in making court documents available on-line while preserving the confidentiality of work in progress.

**2.5 Authorize Electronic Filing — The Supreme Court should authorize electronic filing and establish standards for the receipt and acceptance of electronic documents and signatures consistent with the standards of other state and federal governmental entities.**

**Rationale:** At present, the filing of most documents with the court entails a trip to a clerk of court's office. The advent of facsimile machines, which can be found in all of Iowa's clerk of court offices, has made remote filing of

documents possible. However, facsimile filing is prohibited by Supreme Court order except in certain circumstances. With technologies currently available to ensure the security and veracity of documents in digital form, electronic filing could provide Iowans with enhanced access to their courts without undermining the integrity of documents.

To this end, the Judicial Branch should establish a system of uniform electronic filing standards that addresses the issues of security, origin of filing, receipt and acceptance, and signature verification. Once such standards have been established, facsimile filing should be authorized. Facsimile filing should be an interim step that will lead to electronic or digital filing. To provide for filing and document transfer to locations outside the state court system, Iowa's electronic filing standards should be compatible with those used by other states.

- **Implementation priority:** Short-term
- **Related recommendations:** Delivery of Justice 2.1, 2.2

## **2.6 Implement Electronic Storage of Documents — The Judicial Branch should implement electronic storage of all documents, both new and existing, in a uniform, standard format.**

**Rationale:** Courthouses in Iowa today are overflowing with documents, a fact made more compelling by the limited storage space in most court facilities and the fiscal constraints under which many county governments operate. These documents are stored in a variety of forms (e.g., microfiche) rather than any uniform format, and cannot be searched electronically. Concerns about the problem of document storage were raised repeatedly by focus group participants.

Technology can be used for record storage, with the result that it will also relieve overcrowded court facilities and enhance access to public records. To accomplish this, the Judicial Branch must set statewide standards for the uniform electronic storage of court documents. All documents should be stored in a form that assures ease of access for the public and court employees. The format selected should be capable of storing both the image and the

text of documents. It also should be non-proprietary and readily available; that way, as computers change, the format can remain the same.

- **Implementation priority:** Short/medium-term
- **Related recommendation:** Administration 4.3

## COURT INFRASTRUCTURE

**3.1 Promote Internal Electronic Communication — The Supreme Court should encourage and support ongoing technological innovation projects within the Judicial Branch, such as electronic mail and teleconferencing.**

**Rationale:** At present, communication within the Judicial Branch is poor and usually occurs in a very formal manner. Lack of communication (both vertically and horizontally) was identified by all of the focus groups as a significant weakness of the court system. There is also a lack of technology to promote easy communication among court employees.

Teleconferences should be used for internal meetings of court staff. Another technology that would significantly improve internal Judicial Branch communication would be the use of electronic mail (e-mail). E-mail capability is currently to be found only in clerk of court offices in which the Iowa Court Information System has been installed; its use by clerks should be encouraged. Institution of e-mail among *all* court employees would allow those within the Judicial Branch to communicate informally, share ideas and information, and discuss common issues. Anecdotal information from other state court systems supports the widespread benefits of a simple e-mail system for judges and other court employees. It could help promote a more participatory style of management, in contrast to the Judicial Branch's current top-down organizational management structure. (See Administration Recommendation 3.2.) E-mail would also provide an efficient means to disseminate information on important issues, such as legislation, to employees at all levels of the court system.

Any e-mail capability should be designed to connect with the outside world. That way, following internal implementation, Iowans will be able to commu-

nicate directly with Judicial Branch employees by means of e-mail, making the court system more responsive to citizens.

- **Implementation priority:** Short-term
- **Related recommendations:** Administration 4.5; Planning and Public Education 1.6

### **3.2 Retrofit Existing Facilities — The Judicial Branch and the counties, as appropriate, should retrofit existing court facilities to take advantage of new technologies.**

**Rationale:** Aging and crowded courthouses were identified as a crucial weakness by participants in the focus groups conducted by the Commission. Currently, court facilities are not compatible with contemporary needs and security concerns, let alone wired for the “information highway.”

Courthouses have long served as a symbol of justice in Iowa. In order for them to be of use in 2020, they must be retrofitted with new technologies. Standards must be set so that the dignity of the courtroom is maintained; monitors, cabling and keyboards should not be prominent. Special attention should be paid to making court facilities accessible to those with disabilities and/or language barriers. Following retrofitting, the status of facilities should be monitored and upgraded on an ongoing basis to embrace new technologies.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Delivery of Justice 2.1; Administration 4.1; Funding 1.1

#### **Success Story: Video Conferencing**

Under a legislative “technology fund” established in 1996, the Iowa Supreme Court has authorized pilot testing of video conferencing in Linn County District Court. Representatives of the Judicial Branch are working with Iowa Communications Network staff to plan and implement the project. Expected to be particularly useful for post-conviction litigation, video conferencing promises to solve problems of expense and security inherent in transporting prison inmates to hearing sites.

**3.3 Employ Advanced Security Measures — The Judicial Branch should take advantage of new technologies to protect court personnel and the public and to assure the full and impartial hearing of disputed court matters.**

The potential for violence and a concern for safety are daily facts of life for those who work in and use the court system.

**Rationale:** For Iowa’s justice system to work properly, it is essential that courthouses provide a forum for the peaceful resolution of disputes. However, as repeatedly raised by focus group participants, the potential for violence and a concern for safety are daily facts of life for those who work in and use the court system. At present, the only full-time use of metal detectors in Iowa’s courts occurs at the Polk County Courthouse. In some counties, certain criminal proceedings, such as arraignments, are being conducted by means of remote video in some districts.

Advanced security methods must be employed to ensure the safety of court users and employees. Improvements should be made by using technologies that do not limit access, unnecessarily invade the privacy of individuals, or interfere with the use of courtrooms.

Security could be enhanced by metal detectors and other security devices, electronic identification systems, more secure judicial chambers and other advanced technologies. Voice-recognition technology or other advanced personal identification systems could be used to limit access to certain areas. By 2020, advanced security measures are likely to be imbedded in door frames and capable of reliably checking for weapons and explosives while at the same time maintaining the dignity of the judicial process.

- **Implementation priority:** Short/medium-term
- **Related recommendations:** Delivery of Justice 2.4; Administration 4.1

**3.4 Facilitate Simple Legal Proceedings — The Judicial Branch should use technological innovations to streamline the disposition of simple and uncontested legal matters.**

**Rationale:** Using a kiosk or computer at sites remote from the courthouse, members of the public should be able to initiate and dispose of simple proceedings such as document requests, name changes, payment of fines and

fees, and undisputed traffic matters. The court system should explore providing these services on a Hyper Text Markup Language (HTML) web browser, which could be accessed either by means of the Internet or through a private "Intranet" within the Judicial Branch. Such use of technology would enhance access and save time and money. Furthermore, it would free clerk of court personnel to focus on more complicated matters. Given the lack of depth in court system staffing, this will continue to be an important consideration.

- **Implementation priority:** Medium/long-term
- **Related recommendations:** Delivery of Justice 2.1, 4.3; Planning and Public Education 3.2

**3.5 Develop Interactive Court Network — The Judicial Branch should create a telecommunications network accessible by judges and lawyers to replace some formal and informal hearings and conferences.**

**Rationale:** The judicial system has historically been based on a same time/same place paradigm, whereas many hearings and conferences in which testimony is not taken could be held electronically. By means of technology, people in the legal process could meet and participate in legal proceedings at different times and different locations. Pre-trial conferences, motion hearings, initial appearances and the signing of orders could be held electronically with the judge and the parties located at different sites. The use of video arraignments, currently employed in some districts, is one example of remote courtroom use. Given this technology, rules that allow legal proceedings to be held when parties are physically separated could be expanded to allow participants to make their make their appearances (e.g., arguing for or against a motion) at different times.

- **Implementation priority:** Medium/long-term
- **Related recommendation:** Administration 4.5



## SUMMARY OF TEAM RECOMMENDATIONS

TEAM RECOMMENDATIONS		IMPLEMENTATION PRIORITIES				OTHER TEAMS' RELATED RECOMMENDATIONS
		Ongoing	Short Term (1-2 yrs.)	Medium Term (3-5 yrs.)	Long Term (6+ yrs.)	
<b>1. Use of Technology</b>						
1.1	Establish Court Technology Advisory Committee		✓			Administration 4.5; Funding 3.5
1.2	Conduct Ongoing Evaluation of ICIS		✓	✓	✓	
1.3	Allocate Adequate Technology Funding		✓	✓	✓	Delivery 3.3
1.4	Evaluate Impact of Technology		✓	✓	✓	Administration 4.5; Planning 2.1
<b>2. Data and Information</b>						
2.1	Evaluate Public Records Retrieval			✓		Administration 4.3
2.2	Participate in Development of Statewide Database			✓		Planning 1.4
2.3	Share Database with State Agencies		✓	✓		Funding 3.3
2.4	Create 24-Hour Information Retrieval System			✓		Delivery 2.1, 4.3; Administration 4.4; Funding 1.6; Planning 3.6
2.5	Authorize Electronic Filing		✓			Delivery 2.1, 2.2
2.6	Implement Electronic Storage of Documents		✓	✓		Administration 4.3

3. Court Infrastructure						
3.1	Promote Internal Electronic Communication		✓			Administration 4.5; Planning 1.6
3.2	Retrofit Existing Court Facilities		✓	✓	✓	Delivery 2.1; Administration 4.1; Funding 1.1
3.3	Employ Advanced Security Measures		✓	✓	✓	Delivery 2.4; Administration 4.1
3.4	Facilitate Simple Legal Proceedings			✓	✓	Delivery 2.1, 4.3; Planning 3.2
3.5	Develop Interactive Court Network			✓	✓	Administration 4.5

# Funding

## VISION STATEMENT

*In the 21st Century, the Iowa Judicial Branch is fully funded at levels necessary to fulfill its mission to the people of Iowa. Court operations are primarily funded by the state; appropriations to the Judicial Branch for ongoing operations are not dependent on the courts' ability to generate revenue. Facilities continue to be primarily funded by the counties or other governmental entities. Court business is conducted in facilities that lend dignity and respect to the judicial process and which provide a modern, efficient and safe work environment.*

*As a co-equal branch of government, the Judicial Branch works in partnership with the Legislative and Executive branches to deliver justice to Iowans. The judicial budget is considered on an equal basis with the budgets of the Legislative and Executive branches. The three branches are jointly responsible for the effective allocation of resources for the state court system. The decisional independence of the courts is maintained while interbranch cooperation, communication and accountability to support the public good are fostered. Judicial independence and fiscal accountability are not considered mutually exclusive. The Judicial Branch budget is evaluated and funded on a need-oriented basis. Although court fees continue to be charged for services, they do not block access to justice. The cost of justice is borne by all.*

### Team Members

Co-Chairs:  
Rebecca Colton  
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Bobbi Alpers  
Joy Corning  
Ginny Hancock  
Libby Jacobs  
Bruce G. Kelley  
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Arthur A. Neu  
Linda M. Schulte  
Miriam Tyson  
Thomas J. Vilsack  
David S. Walker

*The court system focuses on its core mission and divests itself of functions not essential to the judicial process. The court system recognizes and honors its responsibility to the people of the state to operate in the most effective and cost-efficient manner, conserving scarce resources and improving the quality and efficiency of the justice process, whenever possible. The courts are free to manage resources. To this end, the courts have developed and implemented objective criteria for measuring and monitoring work loads and other relevant performance measures throughout the system. Resource allocation for every court is tied to these criteria. Court policies encourage and reward good fiscal management and innovations that result in greater efficiency and quality service within the system. Judges and court personnel are fairly compensated at a rate that attracts and retains quality employees. Judges and court personnel are provided with appropriate opportunities for personal and professional development.*

*The Judicial Branch is actively involved in informing and educating both the Executive and Legislative branches, as well as state agencies and the public, about the role and operation of the courts so that they can better assess the need for court resources and understand the societal repercussions of an underfunded system. The Judicial Branch develops the data and information necessary to effectively communicate the resources it needs to fulfill its mission.*

## RECOMMENDATIONS

### SOURCES OF FUNDING

**1.1 Maintain State/County Funding — Judicial Branch operations should continue to be primarily funded by the state, while court facilities should continue to be primarily funded by the counties or other governmental entities. The counties and courts should address the needs for which funding responsibility is not clearly delineated.**

**Rationale:** Since the final implementation of the State Reorganization Act in 1987, the operating costs and related functions of Iowa's courts have been funded by the state, while trial court facilities and offices have continued to be funded by counties. State and county funding responsibilities for the courts are set out in Iowa Code sections 602.1302 and 602.1303.

State funding of operations has benefited Iowa's courts in many ways: providing costs savings through economies of scale; improving the ability to shift resources and personnel where needed; allowing standardization of personnel and financial management practices; reducing funding inequities between courts; and reducing the financial burden on county governments. At the same time, there have been drawbacks to state funding, including: less-than-clear delineation of some funding responsibilities (e.g., county law libraries); a decrease in local officials' influence on court budget matters; and the coupling of court funding to state politics and the health of the state's economy. Despite this situation, the advantages of state funding far outweigh the disadvantages.

Although Iowa's current court funding mix appears to be working well, in some counties there are needs not being met. For example, there are some court facilities around the state in need of renovation or repair. If county finances become tighter, as is expected, it will become even more difficult to properly maintain and improve these facilities. Furthermore, as the state court system adapts to meet future demands for justice, including the incorporation of advanced information technologies in the delivery of justice, court facilities will require significant renovations and improvements.

The Judicial Branch should work closely with local officials to identify current and future needs for court facilities and to delineate both state and local responsibilities in addressing these. Counties may also seek to share funding responsibilities with each other to provide court facilities that better serve citizens at the local level. Court facilities at all levels should be safe, efficient, and should lend dignity to the judicial process.

- **Implementation priority:** Ongoing
- **Related recommendation:** Technology 3.2

**1.2 Allocate Funds Based on Need — The Legislature should evaluate and fund the Judicial Branch budget based on need. Appropriations for court operations should not depend on the courts' ability to generate revenue.**

**Rationale:** Providing justice is a government responsibility. The notion that the quality of justice is dependent on the court system's ability to pay for itself is contrary to the principles of our tripartite form of government. Reliance on collected court revenues for ongoing court operations inherently calls into question the independence, integrity and fairness of the judicial process. Any movement in this direction would be a throwback to the time of the "justice of the peace courts," when the compensation of some judicial officials was based, in part, on the amount of revenue they collected. If Judicial Branch operations are tied to the courts' ability to generate revenue, the public may perceive that the courts are more interested in collecting fines and fees than in serving justice. This could have serious ramifications for the trust that members of the public currently have in the courts and in their government.

- **Implementation priority:** Short-term

**1.3 Recommend Adjustments to Court Fees — The state court administrator should periodically review fees charged for court services, and make recommendations to the Legislature for adjustments. Fees should be based on the reasonable cost of providing a given service and should not unfairly restrict access to justice.**

**Rationale:** Courts have traditionally charged fees for a variety of services, e.g., the filing of civil petitions and liens, copying of records, and provisions for court reporter services. A court system cannot and should not be supported by user fees. However, it is anticipated that the state will continue to assess fees for certain court services.

Fees should not be set so high that they create barriers to public access to the courts. The courts should always have the discretion to waive fees for people who cannot afford to pay them.

Fees for court services should be reviewed regularly and adjusted to reflect current economic conditions. When making changes or recommending changes to the Legislature, the state court administrator should be careful to distinguish between fees charged for judicial processes and fees charged for non-judicial services and the collection of information. Fees for services not integral to the judicial process could be set at amounts that reflect the cost of providing them.

- **Implementation priority:** Medium-term

**1.4 Support Collection of Fines and Fees — The Legislature should provide the Judicial Branch with sufficient resources to collect fines and fees in order to ensure the integrity of court orders and maintain citizen accountability.**

**Rationale:** Although the Commission believes strongly that the Judicial Branch budget should not be dependent upon the revenues it generates, the integrity of the court system requires effective enforcement of all orders, including orders setting fines.

Not surprisingly, effective enforcement requires the dedication of significant resources. At the same time, collection activities should be cost-effective. The courts should not spend valuable resources trying to collect fines that are uncollectible. The courts should develop a procedure for “writing off” uncollectible fines.

Enforcement of fines should be a joint effort of all branches of state government and between state and local government. The courts should assume a leadership role in developing strategies for cooperative, effective collection efforts. Adequate resources should be allocated by the Legislature to the courts and state agencies for the staff and technology necessary to effectively enforce fines.

Successful cooperative efforts already exist, such as the state’s tax intercept procedure and central collection unit, both of which are administered by the Department of Revenue and Finance in cooperation with the Judicial Branch. Also, many county attorneys aggressively pursue the collection of fines.

- **Implementation priority:** Short-term

#### **Success Story: Collection of Fines**

In recent years, Iowa’s Judicial Branch has strengthened its commitment to effective fine enforcement and set in motion a host of programs aimed at improving collection. At the request of the Chief Justice, each judicial district developed or enhanced its own fine collection program. Many court personnel, including clerks of court and their staff, magistrates and judges, stepped up their efforts to collect delinquent fines. More fines are being collected with the help of computers. Cooperative efforts with other government bodies have also proved successful.

**1.5 Seek Alternative Funding Sources — The Judicial Branch should actively seek out alternative sources of funding to supplement state general fund appropriations. The courts should continue to look for supplementary sources of funds, such as federal grants; they should also look for new sources, such as private-sector grants.**

**Rationale:** As revealed by the Commission’s public opinion survey, the amount of money spent by the state of Iowa to administer the state court

system is far less than is commonly believed. Today's courts account for less than 3 percent of the total state budget. Yet, forecasts indicate a long-term probable trend of increasing case loads and related demands and pressures on the courts. Without proportionate increases in the state court budget to prepare for and address such demands, the delivery of justice in Iowa, and the stability it brings to government and society in general, may be compromised. In reality, some of this future funding may have to come from alternative, even non-traditional sources.

Although the primary source of funding for court operations is, and should continue to be, state appropriations, the Judicial Branch should continue to seek out alternative sources of funding to enhance its budget. Federal funds and grants, as well as specially earmarked monies, can provide some insulation in times of tight budgets, and resources for innovative programs.

For example, the Judicial Branch Court Technology Fund, established in 1994, is a dedicated fund for technology, domestic abuse and mediation projects. Over the years, the State Justice Institute, a federally funded program, has provided many grants for projects that have benefited Iowa's Judicial Branch. Currently, federal grants administered through the Governor's Alliance on Substance Abuse (GASA) are helping fund development of a justice system automation network in Polk County and a statewide, domestic abuse protection-order registry.

Court funding cannot be accomplished in any way that suggests that justice can be purchased or compromised.

While alternative and non-traditional sources may account for a larger share of the court system budget in the future, such funds must be obtained with the utmost care and scrutiny. Because an effective judicial system requires impartiality in decision-making, no funds should be acquired which will destroy or diminish the courts' impartiality, or which will undermine public trust in the court system.

Court funding cannot be accomplished in any way that suggests that justice can be purchased or compromised. Even the appearance of impropriety must be scrupulously avoided.

- **Implementation priority:** Short/medium/long-term

**1.6 Explore Sale of Court Databases — The Judicial Branch** should explore the sale of court databases and information retrieval systems to help partially offset the costs of new information technologies required to establish such services.

**Rationale:** Most of Iowa's court records are open to the public. Except for a few types of confidential records, all Iowans have the right to examine, copy and disseminate court records. The law allows the custodian of a public record to charge a fee for copying the record.

As the courts' use of technology increases, it will be able to collect, compile, maintain and collate data in new and unique ways. The courts should carefully study whether or not to charge fees for public access to electronic court records. If the courts determine that fees are appropriate, the fees should be reviewed and adjusted pursuant to Funding Recommendation 1.3

Iowa law provides that a governmental body that maintains a geographic database is not required to permit access to the database except upon the terms and conditions of the governmental body. Court-developed databases and information retrieval systems may be valued by commercial users of court information. The courts should explore the sale of its databases.

Finally, some of the courts' information may qualify for copyright protection. The laws that regulate copyrighted information differ from the laws that regulate public records. It is possible that the Judicial Branch may sell its copyrighted records for a profit. This should also be explored.

- **Implementation priority:** Short/medium/long-term
- **Related recommendation:** Technology 2.4

## RESOURCE MANAGEMENT AND BUDGETING

**2.1 Assign New Appropriation Subcommittee —** The Legislature should review the Judicial Branch budget as part of the same subcommittee that reviews the operating budgets of the Legislature and the Office of the Governor.

**Rationale:** The Judicial Branch exists as a co-equal branch of government, working in partnership with the Legislative and Executive branches to deliver justice to Iowans. The three branches are jointly responsible for the effective allocation of resources for the state judicial system.

Currently, the Judicial Branch budget request is reviewed in the Legislature by the Justice Systems Joint Appropriations Subcommittee, which also considers budget requests by the Attorney General and a variety of criminal justice agencies. This arrangement results in a narrow focus on the courts as a criminal justice agency only, and diminishes the Judicial Branch's status as a co-equal branch of government.

The Executive and Legislative budgets, on the other hand, are considered jointly by the Administration and Regulation Joint Appropriations Subcommittee, which also reviews the budgets of the Executive Council, Secretary of State, Treasurer, and the departments of General Services, Management, Personnel, and Revenue and Finance.

It is important to the mission and function of the courts that the co-equal status of Iowa's Judicial Branch include co-equal treatment of its budget. Moving legislative oversight of the Judicial Branch budget from the Justice Systems Joint Appropriations Subcommittee to a new subcommittee that oversees the operating budgets of the Legislature and Governor would place the courts in a more equal position.

- **Implementation priority:** Short-term

**2.2 Allocate Funding for Long-Range Planning — The Legislature should allocate funds for the staff and resources necessary to implement the recommendations of this Commission and to permit the Judicial Branch to engage in strategic long-range planning.**

**Rationale:** Progressive and well-respected court systems throughout the country rely on the services of professional planners. The Iowa Supreme Court must stress the priority of this need in its annual budget negotiations with the Legislature. The Legislature must respond with a commitment of resources for court planning. Otherwise, the substantial work of this Commission and its citizen members will not be fulfilled.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Planning and Public Education 1.1, 1.2, 1.4

**2.3 Integrate Budgeting and Planning Functions — The Judicial Branch should integrate the established budgeting process with an ongoing strategic planning process to ensure that scarce resources are allocated to the highest priority needs.**

**Rationale:** The annual budgeting process of the Judicial Branch currently serves as the primary form of planning undertaken by the state court system. While the budgetary process is a critically important function of the courts, it is also somewhat limited in its ability to assess the long-term needs and resources of the courts or to incorporate such information into the annual allocation of resources. The courts need to think and behave more strategically when making critical resource allocation decisions. Specifically, budget decisions should take into consideration emerging trends and issues, and be based on long-range priorities consistent with the court's mission and values.

Planning ensures the continuity of any institution's mission, values and long-range vision. It helps organizations anticipate emerging conditions, set long-term directions and adjust their operations accordingly. As recommended by the Commission, the Judicial Branch should establish and fund an ongoing planning function that provides the long-range, strategic context currently missing from its annual budgeting and resource allocation process.

To take advantage of this function, however, the budgeting process must be directly tied to the planning process. To further this goal, administrators should be educated in long-range and strategic planning in order to use it in the budget process. Additionally, regular communication between policy-makers, administrators and planners must take place in order to ensure that strategic information developed through the planning function is carefully considered in budgetary decisions.

- **Implementation priority:** Short-term
- **Related recommendations:** Planning and Public Education 1.1, 1.5

**2.4 Collect Information on Impact of Legislation — The Judicial Branch should collect more information about the amount of time and resources devoted to processing cases and providing other court services. This information should be used to support the Judicial Branch’s budget request, measure the potential impact of proposed legislation, and analyze the effect of newly enacted legislation.**

**Rationale:** The Iowa Legislature, like many state legislatures, has a process for developing information about the potential impact of proposed legislation. In Iowa, the Legislative Fiscal Bureau analyzes the fiscal impact of certain bills under consideration. The Bureau routinely uses information provided by other agencies and entities, including the Judicial Branch. However, these impact statements do not ensure that the Judicial Branch receives the resources it needs to implement new legislation. Nor do they stop legislators from voting in favor of laws that make good public policy or bills that are strongly favored by constituents. Nonetheless, fiscal notes are an important part of the Legislature’s fact-finding process and the data provided by the Judicial Branch should be as informative as possible.

The types of information collected by the Judicial Branch for measuring the impact of legislation are limited to basic case filing and case disposition numbers. Often the Judicial Branch relies on anecdotal information. The Judicial Branch should collect more empirical data to help measure the effect of legislation before and after it is approved. The same data used for

establishing work load measures for personnel as recommended in Funding Recommendation 2.5 can be used to help determine the fiscal impact of legislation.

The Supreme Court should ask legislative leaders to develop a protocol for the Judicial Branch to provide the Legislature with information about the other kinds of effects that proposed laws have on the courts in addition to fiscal impacts.

The Supreme Court should also examine the idea of tying its requests for new funding to the effects of newly enacted legislation. For instance, technology could be used to collect information on the amount of time used by judges and court personnel to process a newly enacted criminal offense or civil proceeding. This information could be used to support requests for more judges and staff. Again, the information used for work load measures could be used for this purpose.

- **Implementation priority:** Short-term
- **Related recommendations:** Planning and Public Education 2.1, 2.3

**2.5 Establish Need Formulas for Personnel — The Judicial Branch should establish benchmarks for levels of service and work load measures to help determine the number of judges and other court personnel needed.**

**Rationale:** In order to be effective and useful, budget requests at all levels of the system — from local to district offices, from districts to the Supreme Court, and finally from the Supreme Court to the Legislature — must be based on objective criteria and corresponding information that facilitates the evaluation of resources requested. Such an approach can greatly simplify and enhance the budgetary decision-making process.

The Judicial Branch currently uses a weighted work load formula and staffing protocol to determine budgeted clerk of court positions. Similar

Random or inconsistent application of judgeship formulas tends to undermine their effectiveness.

formulas should be developed and employed for all major personnel categories, including magistrates, juvenile court officers, and juvenile, district associate and district court judges. In addition, requests for new judges should never be viewed in isolation, i.e., without regard for necessary support staff, equipment and travel expenses. New judgeships should include all the tools and resources needed to effectively and efficiently carry out the responsibilities of their office.

Iowa also has formulas for judges and magistrates. The district court judgeship formula, for example, is based on the number of case filings and population in judicial election subdistricts. The reality is that this formula is frequently disregarded by the Legislature. Random or inconsistent application of judgeship formulas tends to undermine their effectiveness, and can contribute to arbitrary budget decisions.

Statutory judgeships (including district associate judges, associate juvenile judges, probate judges and magistrates) and formulas should be re-examined as part of a comprehensive Supreme Court study of overall judgeship needs. Since this Commission has also recommended that the Supreme Court establish a task force to evaluate Iowa's existing trial court structure and clearly delineate the roles and responsibilities of every type of judicial officer (see Administration Recommendation 2.4), any study of judgeship formulas should be part of—or at least undertaken in coordination with—such a task force.

- **Implementation priority:** Short-term
- **Related recommendations:** Delivery of Justice 3.3; Administration 2.4, 2.5, 2.8

**2.6 Provide Fiscal Management Incentives — The Judicial Branch should provide incentives to promote good fiscal management, encouraging and supporting initiatives and projects that address the distinct needs of local courts in a manner consistent with state policies.**

**Rationale:** Judicial independence and fiscal accountability are not mutually exclusive. The stewardship of public funds requires efficient manage-

ment and involves public scrutiny. However, the Judicial Branch should be given managerial freedom in the use of resources to ensure that they are allocated to priority needs, to facilitate planning, and to promote efficient utilization of resources.

Managers will not effectively pursue cost control or organizational change unless there are incentives to do so. Performance incentives and rewards enhance efficiency and productivity. The Judicial Branch, its districts and individual offices must share in the benefits of cost control and be rewarded for good cost control behaviors. For example, the personnel system could provide financial rewards for efficiency, savings, and innovations; districts and local offices could be allowed to retain a portion of any budget savings; and a portion of savings could be carried over into the next fiscal year.

The provision of fiscal management incentives to promote new efficiencies and productivity must preserve a careful balance between uniformity and flexibility. In a complex organization like the state court system, some procedures and practices are so universally effective in promoting good management that they lend themselves to system-wide application; ultimately, such “best practices” become the basis of uniform policy. At the same time, some procedures and practices need to be customized in order to respond to unique local conditions and requirements; such flexible applications honor organizational diversity and allow local innovation to thrive. Paradoxically, local innovation often leads to system-wide best practices. The Judicial Branch needs both.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Administration 2.9, 3.3

## COMMUNICATION AND CONSTITUENCY BUILDING

**3.1 Present Annual Budget Rationale — The Judicial Branch should provide a detailed rationale for budget requests in a report accompanying the Chief Justice’s annual State of the Judiciary address to the Legislature.**

**Rationale:** At the start of each legislative session, the Chief Justice is invited to address a joint session of the Legislature and state officials on the state of the Judicial Branch. The text of the Chief Justice’s message is disseminated to the Governor, legislators, judges, clerks of court, bar leaders and the media. Additional materials that support and further explain the message, including statistics and clearly-stated justifications for budget requests, add to its effectiveness.

The State of the Judiciary message is a highly visible tool for discussing matters of concern to the Judicial Branch. The Judicial Branch should use this occasion to the fullest to promote its concerns.

- **Implementation priority:** Ongoing

**3.2 Promote Public Understanding of Court Needs — The Judicial Branch, as part of its public education function, should promote awareness of the benefits of a fully funded court system and the resulting societal costs of underfunding the system.**

**Rationale:** Currently, the operation of the state court system accounts for less than three percent of Iowa’s state budget. This single fact and its implications for the future delivery of justice is little known or appreciated by Iowans. In fact, the Commission’s public opinion survey revealed a distinct lack of knowledge regarding court funding on the part of the public. Only 50 percent of survey respondents would venture an opinion on this subject. Of those who did, four out of five grossly overestimated the amount of funding actually allocated to the courts. Compared to public perceptions and expectations, the reality of court funding is stark.

As demands on the courts continue to increase, it will become even more difficult for the court system to deliver the prompt, fair and efficient adjudi-

cative services Iowans expect and have come to depend upon. It is important that the Judicial Branch be a strong advocate for a fully funded court system. Securing funding for the courts means that Judicial Branch budgets must be developed, advocated and defended. If Iowans continue to expect a high level of court services, it follows that they be asked to support court funding. It is legitimate that the Judicial Branch inform citizens of its funding needs and encourage their support. Such advocacy need not conflict with the highest standards of judicial independence and integrity, nor be conducted in a self-serving manner.

The Judicial Branch should make concerted efforts to make the public itself an advocate for the courts. This would include educating citizens on the needs and resource requirements of the court system. It would also include informing them of the significant social benefits of a fully funded court system — as well as the potential social costs of underfunding that system. Such information should be an integral part of ongoing public outreach and education efforts sponsored by the Judicial Branch.

- **Implementation priority:** Short-term
- **Related recommendations:** Delivery of Justice 3.3; Planning and Public Education 3.1, 3.3, 3.5

**3.3 Strengthen Intergovernmental Dialogue — The Judicial Branch should assume a leadership role in strengthening the ongoing dialogue between the three branches of government and local officials to encourage continuing reform and innovation in the courts.**

**Rationale:** Providing Iowans with a fair and effective court system is a mission shared by the three branches of government. The strength of Iowa's justice system depends on the strength of the partnership that exists and must exist between the three branches. Good communication is the key to maintaining a good partnership.

Currently, the Judicial Branch has a legislative program that is set and directed by the Supreme Court. The Court has a legislative liaison who works with legislators primarily during the session. On a daily basis, court staff members track the status of bills affecting the courts, provide information

about the fiscal impact of bills to the Legislature, circulate bills and legislative reports to a large group of judges and court staff for comment, and respond to questions from lawmakers. The Chief Justice gives an annual State of the Judiciary message, and justices, chief judges, and district court administrators periodically meet with legislators about Judicial Branch concerns.

In addition, several judicial districts have annual informational meetings for their area legislators. Such meetings provide the opportunity for judges and court personnel to get better acquainted with lawmakers, to pass on information about the court system, and to discuss matters of common interest.

### **Success Story: Conference on Court Funding**

In fall 1995, members of Iowa's three branches of government attended the National Interbranch Conference on Funding the State Courts in Minneapolis. The conference provided a forum for the sharing of best practices and new ideas from other jurisdictions. This gave Iowa's representatives an opportunity to become acquainted and gain insight into the perspective of other branches of government.

Chief judges should communicate regularly with area lawmakers and local officials about issues of mutual concern. The Supreme Court should explore other ways to build a foundation for dialogue between the three branches. For example, some state court systems offer judicial ride-along programs, which allow lawmakers a chance to accompany a judge during a day at court.

In the past, effective communication between the courts and other branches of government has not always been a reality. While the Judicial Branch must maintain its independence in decision-making, this does not—nor should not—preclude regular, consistent communication with other government officials regarding matters of mutual concern. It is important that the Judicial Branch and the Supreme Court in particular take a leading role in establishing and enhancing such a dialogue.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Technology 2.3; Planning and Public Education 1.6

**3.4 Expand Internal Communication on Legislative Issues —** The Judicial Branch should expand its internal communication system to inform judges and other court personnel in a more effective and timely manner of legislative issues that affect the courts, including the Judicial Branch budget.

**Rationale:** Interested parties, including legislators, frequently ask judges and court personnel questions about pending legislation. In many instances, judges and court personnel are not sufficiently conversant to respond knowledgeably. Uninformed judges and court personnel create a less than coherent picture of Judicial Branch legislative priorities and may lead to confusion or a lack of support for the courts' legislative initiatives. This lack of knowledge also does not speak well for the internal communication of the courts.

It is in the best interest of all concerned that a regular channel of communications is opened so that correct information can be imparted to those making the request. The courts should develop a system for quickly communicating legislative matters concerning the Judicial Branch, as well as court system policy matters.

This system must be encouraged and supported at both the state and local level. Possible techniques for expanded communication on legislative issues include special judicial or other personnel briefing sessions, statewide communiqués, facsimiles or even phone trees. Regardless of the technique employed, a commitment to expanded communication is critical to the success of future court legislative initiatives.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Planning and Public Education 2.3

**3.5 Broaden Membership of Judicial Advisory Committees —**  
The Judicial Branch should broaden the membership of its advisory and/or planning committees to include representatives of the Executive and Legislative branches, local officials and representatives of the public-at-large, whenever feasible.

**Rationale:** The efforts of this Commission have demonstrated that Iowans who are not directly involved in the courts have important information and ideas regarding the functioning of the court system. Beyond state court judges and other personnel, there are other groups of Iowans who have valuable experiences, information or expertise that may improve the day-to-day functioning of the courts. Such perspectives should be incorporated by the court system. Involving citizens from diverse backgrounds is also an effective tool for building a constituency for the court system.

Involving citizens from diverse backgrounds is an effective tool for building a constituency for the court system.

The Judicial Branch should encourage and learn from such perspectives by expanding the membership of its advisory and planning bodies. Lay members should be carefully selected to provide a broad range of interests, perspectives and backgrounds. At the same time, it should be recognized that certain committees, such as those involved in highly technical administrative or legal questions, may require more limited or specialized memberships. An advisory committee on rules of evidence, for example, would probably not lend itself to expanded citizen representation.

- **Implementation priority:** Short-term
- **Related recommendations:** Administration 2.3; Technology 1.1; Planning and Public Education 1.6

**3.6 Bring Judicial Branch Perspective to Government Committees**  
— The Judicial Branch should increase its representation on all government advisory boards, commissions and committees that make decisions affecting court resources, work loads and the administration of justice.

**Rationale:** Just as it is important to bring outside citizen and consumer perspectives into the ongoing operation of the courts, it is equally important to communicate Judicial Branch perspectives to the other branches and government bodies.

Government boards, commissions and committees frequently make decisions that directly or indirectly affect the courts. Judges and court personnel should serve on advisory boards, commissions and committees of other government bodies to ensure that court perspectives are understood and represented. Judicial Branch representatives should be drawn from all areas of expertise within the court system in order to provide useful, balanced and accurate information on every aspect of the courts.

- **Implementation priority:** Short/medium/long-term
- **Related recommendation:** Planning and Public Education 1.6



## SUMMARY OF TEAM RECOMMENDATIONS

TEAM RECOMMENDATIONS		IMPLEMENTATION PRIORITIES				OTHER TEAMS' RELATED RECOMMENDATIONS
		Ongoing	Short Term (1-2 yrs.)	Medium Term (3-5 yrs.)	Long Term (6+ yrs.)	
<b>1.</b>	<b>Sources of Funding</b>					
1.1	Maintain State/County Funding	✓				Technology 3.2
1.2	Allocate Funds Based on Needs		✓			
1.3	Recommend Adjustments to Court Fees			✓		
1.4	Support Collection of Fines and Fees		✓			
1.5	Seek Alternative Funding Sources		✓	✓	✓	
1.6	Explore Sale of Court Databases		✓	✓	✓	Technology 2.4
<b>2.</b>	<b>Resource Management and Budgeting</b>					
2.1	Assign New Appropriation Subcommittees		✓			
2.2	Allocate Funding for Long-Range Planning		✓	✓	✓	Planning 1.1, 1.2, 1.4
2.3	Integrate Budgeting and Planning Functions		✓			Planning 1.1, 1.5
2.4	Collect Information on Impact of Legislation		✓			Planning 2.1, 2.3
2.5	Establish Need Formulas for Personnel		✓			Delivery 3.3; Administration 2.4, 2.5, 2.8
2.6	Provide Fiscal Management Incentives		✓	✓	✓	Administration 2.9, 3.3

3. Communication and Constituency Building						
3.1	Present Annual Budget Rationale	✓				
3.2	Promote Public Understanding of Court Needs		✓			Delivery 3.3; Planning 3.1, 3.3, 3.5
3.3	Strengthen Intergovernmental Dialogue		✓	✓	✓	Technology 2.3; Planning 1.6
3.4	Expand Internal Communication on Legislative Issues		✓	✓	✓	Planning 2.3
3.5	Broaden Membership of Judicial Advisory Committees		✓			Administration 2.3; Technology 1.1; Planning 1.6
3.6	Bring Judicial Branch Perspective to Government Committees		✓	✓	✓	Planning 1.6

# Planning and Public Education

## VISION STATEMENT

*In the 21st Century, the planning process is motivated and inspired by an overall vision for the courts, a vision that is regularly evaluated and updated.*

*The State of Iowa now funds planning and public education functions within the court system to anticipate the future and not merely react to it. In a non-adversarial environment, unbiased professionals collect information from within the system and monitor trends outside the system, so that Iowa's court system can respond to the needs of its citizens.*

*The Judicial Branch routinely measures and evaluates, internally and externally, the individual and systemic performance of its players. Judicial decision makers address the evolving dispute resolution needs of society. Managerial decision makers uniformly administer the court system. Adjudicators and managers alike are adequate in number, sufficiently trained and properly equipped.*

*Communication occurs in an open, responsive and confident climate. Dialogue flows freely and uncensored among all personnel within the Judicial Branch and between it and other branches of government. All personnel in Iowa's court system are stakeholders in the planning process, actively consulted, esteemed, and recognized for contributions. The Judicial Branch demonstrates its commitment to the consumers of judicial services and continues to involve them in the planning process.*

*Public education has engendered awareness, respect and support from citizens for "their" court system. Law and civic education curricula are provided through the schools in order to promote public understanding of the courts, the rule of law, and the responsibilities of judges, lawyers and citizens. In addition to its own public outreach program, the courts actively support these educational efforts.*

### Team Members

#### Co-Chairs:

Bruce M. Snell, Jr.  
Robert D. Ross

Sherry Barrett

Jerry Beatty

Jim Benson

Gregg G. Compton

Laurie K. Doré

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Michael W. Rickert

Mark E. Schantz

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## RECOMMENDATIONS

### JUDICIAL BRANCH PLANNING

**1.1 Establish Planning Function — The Iowa Supreme Court should establish and fund a planning function that engages in long-range strategic planning, continually measures the performance of the Judicial Branch, actively consults with all levels of the judicial system, and collaborates with other branches of government.**

**Rationale:** Historically, the courts have been a “reactive” institution, governed by precedent, bound by tradition, and focused on the adjudication of pending disputes. As a consequence, they have not fully developed the experience or resources necessary to anticipate or plan for the future. As accelerating social change places intense new pressures and demands on the courts, they must develop the capacity to respond swiftly to identify emerging trends and issues, and implement long-range institutional reforms. Otherwise, courts will be unable to fulfill their historic mission as guardians of our constitutional democracy.

Currently, the Judicial Branch lacks any coordinated long-range planning process, let alone one that is inspired and motivated by an overall vision for the courts. No one in the Judicial Branch currently performs (or has the means, expertise or opportunity to perform) long-range strategic planning. The Judicial Branch needs such planning in order to prepare itself for the changes and challenges it faces now and in the not-so-distant future. The Judicial Branch similarly lacks any method to evaluate its performance in the delivery of judicial services. Accordingly, it cannot account to itself or to Iowa’s citizens as to how it uses its resources or whether it meets the needs or expectations of the public.

The Judicial Branch needs a dedicated planning function to identify and document valid needs. As competition for resources (especially state funding) intensifies, the presentation of facts and plans will mean the difference between appropriations granted and denied. An internal long-range strategic planning process would promote the capacity to anticipate and plan for the

future. The periodic process of assessing the courts' internal and external operating environments, tracking emerging trends, developing and prioritizing clearly defined goals, and monitoring the implementation of such goals would provide the courts with an ongoing system for navigating an environment of rapid change.

- **Implementation priority:** Short-term
- **Related recommendation:** Funding 2.2.

**1.2 Employ Planning Staff — The Judicial Branch should employ professional planning staff who can assist the courts in anticipating and preparing for the future.**

**Rationale:** Court personnel currently lack the experience or expertise to carry out the independent long-range strategic planning function proposed for the Iowa courts by this Commission. While current court staff do engage in annual budgetary and operational planning, no staff members are currently charged with or specifically trained to undertake longer-range planning activities.

In order to implement many of the proposals and concepts developed by this Commission and to establish an independent planning function, full-time professional planning staff will be required. Such staff must be familiar with basic long-range planning concepts and skilled in such specific planning activities as data gathering, environmental scanning and trend analysis, survey and consumer research techniques, organizational development, group facilitation and training, basic computer and telecommunication technology, writing, editing and public speaking.

This staff must also be granted sufficient autonomy to immunize them from day-to-day, short-term operational pressures, permitting them to neutrally gather and assess relevant data and information, and to effectively develop and implement long-range strategic plans. Employing such staff is a necessary prerequisite to carrying out the planning functions and activities proposed in this report. It is an immediate implementation priority.

- **Implementation priority:** Short-term
- **Related recommendation:** Delivery 3.3.

**1.3 Establish Planning Advisory Committee — The Supreme Court should establish a Planning Advisory Committee to provide leadership, ideas and user perspectives for the planning function.**

**Rationale:** Iowa's Judicial Branch currently has little or no direct communication with users of the courts. However, access to consumer-based ideas and information drawn from outside the organization is a critical element in the implementation of an independent planning function. Such input would establish a direct link between court planners, court users, and other stakeholders in the justice system, providing critical knowledge for the planning function.

Access to consumer-based ideas and information drawn from outside the organization is a critical element in the implementation of an independent planning function.

The formation and use of a Planning Advisory Committee would enable the courts to be more responsive to citizen perceptions and needs. Such a committee would serve as an ongoing resource for the planning function—providing information on current public issues affecting the courts; communicating concerns and perspectives of groups and constituencies outside the court system; gathering and analyzing information on court performance; reviewing and commenting on the effects of pending legislation; and serving as a source of ideas and suggestions for improving court operations.

The Planning Advisory Committee should be comprised of people who represent the courts' various constituency groups and reflect the state's demographics. Initially, the committee should be drawn from members of the Commission on Planning for the 21st Century in order to ensure continuity in implementing its recommendations. Committee members should serve staggered terms and be replaced, as their terms expire, by the Supreme Court.

- **Implementation priority:** Short-term
- **Related recommendation:** Delivery of Justice 2.5.

**1.4 Acquire Planning Systems and Resources — The Judicial Branch should acquire and employ state-of-the-art systems and resources necessary to gather and analyze the information required for effective planning.**

**Rationale:** In the past, the Judicial Branch has been slow to adopt reasonable, reliable, and proven technologies. In addition, established methods of data and information collection have been insufficient to support quality planning. As the courts enter the next century, and societal and technological change continues to accelerate apace, new technological systems and resources will be required for the effective functioning of the courts. Such resources will also be essential if the courts are to establish and maintain the independent planning capability necessary to manage such change.

Planning for the future of the courts will require state-of-the-art computers and software, access to sophisticated databases, advanced telecommunication capabilities, modern meeting facilities and audio-visual equipment, and related planning tools and technologies. Providing Judicial Branch planners with the best tools possible will help ensure that they are able to carry out the function with which they are charged. It is critical that the Judicial Branch secure these resources.

- **Implementation priority:** Medium-term
- **Related recommendations:** Delivery of Justice: Access and Quality 3.3; Technology 2.2.

**1.5 Develop Strategic Plans — The Judicial Branch should develop and implement long-range strategic plans with the involvement and strong commitment of top leadership. These plans should be amenable to continuous modification and improvement, and supported by annual operational plans.**

**Rationale:** The end-product of an institutional planning function—such as that proposed for the Iowa court system—is a strategic plan. While a *vision* is intended to articulate the long-term ideal state of an institution—ten, fifteen, twenty-five years into the future, a *strategic plan* is designed to actually move an institution in the direction of its vision over a shorter period of time—two to five years, for example. A strategic plan is usually comprised of a series of

specific goals, strategies and actions that can be assigned, budgeted for, monitored and measured. In reality, it may take an institution a span of several strategic plans to achieve its overall vision. As such, long-range strategic planning represents a continuing “iterative” process—one that is carried out in an ongoing, periodic fashion.

The regular development of strategic plans for the Judicial Branch would serve as a basis for the future delivery of justice, expanding the courts’ perspective beyond the immediate adjudication of current cases. This would require and engender more effective management of the courts and greater accountability. A comprehensive institutional “road map” with explicit “guideposts” will position the Judicial Branch to effectively compete for the resources necessary to implement its goals. A proactive court system that knows where it wants to be and how it intends to get there will gain and maintain the respect and the support of its ultimate constituency—the public.

- **Implementation priority:** Short/medium/long-term
- **Related recommendation:** Funding 2.2.

#### **1.6 Promote Effective Communication — The Supreme Court should implement policies to create open and responsive communication within the Judicial Branch and with other branches of government.**

**Rationale:** Effective planning cannot occur without enthusiastic support and input from personnel at all levels of the court system. Likewise, long-range planning requires that the Judicial Branch freely and regularly communicate with other branches of government— both to gather the data and other information necessary to effective forecasting, and to generate the political and financial support essential to the implementation of long-range goals. Unfortunately, the current managerial climate within the court system stifles, rather than stimulates, internal and external communications.

The hierarchical structure and adjudicatory independence of the court system permeates its managerial climate as well. As a result, present and organizational charts and structures artificially impede the flow of communication. Court personnel often hesitate to speak out or to each other, whether for fear of sanction or for lack of systemic encouragement.

Fear of ceding judicial independence similarly hampers inter-branch communication. Court personnel often hesitate to interact with other branches of government to avoid any appearance of impropriety. Yet, such external communication is essential to effective management and successful planning

**Success Story: Upgraded Newsletter**

After receiving requests over the years from judicial districts for more information on Judicial Branch operations, the State Court Administrator decided to improve internal communication with judges and other court personnel. A new Judicial Branch newsletter, *The Bench Press*, was chosen as the vehicle. A new design and layout were developed to allow for greater coverage, special projects, committees, budgeting, court rules, and personnel. Publication was increased from quarterly to bi-monthly, with special issues to be devoted to important topics. Plans are underway to ensure that the newsletter is distributed to all Judicial Branch employees.

In sum, improved intra- and inter-branch communication will assist the Judicial Branch in integrating participatory management principles into its operations. This, in turn, will lead to a more effective, and increasingly satisfying, planning process.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Funding 3.3, 3.5, 3.6.

**1.7 Facilitate Organizational Change — The Judicial Branch should utilize the services of professionals to address the human issues that will arise as the courts institute the managerial, administrative, technological, and communication changes incident to long-range strategic planning.**

**Rationale:** Change is difficult, but it also is necessary. As the Iowa court system moves into the next century, the pressures on the courts to effectively navigate their way through accelerating societal change will be great. External forces driving such change will be many: a changing population; a growing number of court cases; new demands from the “consumers” of justice services; and efforts to develop new approaches to the resolution of disputes.

Today, planning for a rapidly changing world calls for a different approach. While the court system as an institution will continue to honor its basic tradi-

tions and guiding principles, it must be willing to address the human impact of organization change and to engage in ongoing training and education.

Such a transformation will likely place intense pressures and demands on judges, administrators and other court employees. It must also be guided with the utmost purpose, skill and sensitivity. Fortunately, there is a growing body of thought and skilled practitioners devoted to managing organizational change. Experts can provide the knowledge, information and skills needed to facilitate such a process while minimizing disruptions. The Judicial Branch should retain the services of professionally trained “change management” specialists on a selective basis to help guide such a process.

- **Implementation priority:** Short/medium-term
- **Related recommendations:** Delivery of Justice 3.4; Administration 3.2, 3.3.

“The real difficulty in changing the course of any enterprise lies not in developing new ideas but in escaping from old ones.”

—John Maynard Keynes

## DATA AND INFORMATION GATHERING

**2.1 Analyze External Trends — The state court administrator should periodically assess and analyze external forces and trends and the impact they may have on the court system.**

**Rationale:** Identifying emerging trends and innovations that could have significant impact on the court system will enhance management with foresight, and will bring issues to the attention of decision makers early enough to support timely, effective responses. For example, if increases in juvenile crime were detected early, the courts would be able to adopt policies and procedures to manage the increase effectively.

- **Implementation priority:** Short/medium/long-term
- **Related recommendation:** Funding 2.3.

**2.2 Conduct Needs and Attitude Survey — The Judicial Branch should conduct a confidential survey of all employees to establish a baseline for planning. This survey would assess the internal environment of the court system and solicit input as to immediate and long-term priorities.**

**Rationale:** A needs and attitude survey is a necessary prologue to effective planning—the first step in assessing the internal environment of the Judicial Branch. Such a survey would be conducted on a periodic basis to improve the communication, managerial, work and relational environments of the courts.

This environmental assessment would give court leadership a clearer picture of the working environments; support the need for more modern management capabilities within the Judicial Branch; identify serious problems that need to be confronted and resolved; prioritize opportunities for improving the internal environments of the Judicial Branch; establish a baseline for evaluating the courts' future managerial and adjudicative performance; and supply information that will support future budget requests.

This survey would be implemented in a confidential, non-retaliatory manner. Thus, employees would not feel at risk due to the nature or content of their comments.

- **Implementation priority:** Short/medium/long-term

**2.3 Anticipate and Assess New Legislation — The Judicial Branch should anticipate and plan for new legislation, assess its impact on the court system, and identify the additional resources necessary to manage that impact.**

**Rationale:** Notwithstanding the use of “fiscal notes”—the current method used to project the budgetary consequences of proposed laws—the Legislature often passes bills without sufficient information to assess their long-term, comprehensive impact on the Judicial Branch. As a result, judges, court administrators and personnel are often unaware of the ramifications of new laws until after they have been passed. At the same time, the courts have no system to monitor and evaluate the impact of new legislation after it has taken effect.

For example, Iowa legislators enacted domestic abuse legislation in the early 1990s that made it easier for petitioners to obtain a civil protection order without an attorney. Despite the critical need for such legislation, it has resulted in dramatic and unanticipated increases in “pro se” domestic abuse filings that continue to overwhelm the courts. As a result, the number of such petitions jumped from 188 in 1990 to 5,583 in 1995. A foresight mechanism could have helped forewarn both the Judicial Branch and the Legislature of the anticipated consequences and enabled both branches of government to cooperate in determining the resources necessary to effectively implement the law. In addition, continued monitoring of the results would have enabled the Judicial Branch to request the additional resources necessary to deal with this increased case load.

Establishment of a judicial foresight mechanism, i.e., the ability to plan for, monitor and evaluate new legislation and its impact, would enable the Judicial Branch to better respond to emerging social issues and legislative attempts to address those issues. Such a mechanism would be incorporated into the Judicial Branch’s planning function and linked to its ongoing legislative and budgeting processes.

- **Implementation priority:** Medium-term
- **Related recommendations:** Funding 2.3, 3.4.

## **EDUCATION**

**3.1 Establish Public Education Function — The Supreme Court should establish a public education function to effectively educate the public about the Judicial Branch. This function should assist in the development of educational programs for teachers and children, users of the court system, and other public constituencies of the courts.**

**Rationale:** It is an article of democratic faith that an informed public is the best guardian of liberty. As indicated by the Commission’s public opinion survey, Iowans with a higher level of knowledge about the courts evaluate Iowa’s courts more positively and express greater trust in the courts than do

those with less knowledge. Unfortunately, the same survey suggests that many Iowans are poorly informed or simply not interested in the workings of the courts. It is essential to the future of our democracy that citizens, and young people in particular, be better educated in these matters.

Current efforts to educate the public about the court system are random and usually provided by organizations outside the Judicial Branch. Iowa is fortunate to have many teachers and schools working to improve understanding of the democratic process and the courts, and a center for law-related and civic education dedicated to working with them to promote and enrich their efforts. There is an inherent public interest in supporting this educational mission with public funds.

#### **Success Story: IOLTA Funding**

In recent years the Iowa Supreme Court has approved Interest on Lawyer Trust Accounts (IOLTA) funding for projects designed to enhance public awareness and understanding of the state court system. Examples: Curriculum developed by the Iowa Center for Law & Civic Education at Drake University to match students with clerks of court as part of a community service project; a matching grant for printing and distributing 10,000 copies of a pro se guide called "How to Protect Yourself from Domestic Abuse Without a Lawyer"; and the Iowa State Bar Association's Young Lawyers Division "Trial by Jury" program at the Iowa State Fair.

Many additional avenues exist for collaborative efforts in educating the public about the courts. Public schools, community colleges and universities, the legal profession and civic organizations are all natural allies in the goal of increasing the public's awareness of our democratic institutions and the responsibilities of citizenship in general and justice and the courts in particular. However, in order to take advantage of these opportunities, a dedicated education function must be funded and staffed within the Judicial Branch itself.

To this end, the courts must secure the funding and staffing necessary to undertake such initiatives. The courts must find new ways to increase both their service and their relevance to the public. Courts must reach out in innovative ways to touch the lives of more people in a positive and construc-

tive manner. The courts need to be recognized as a significant factor in the life environment of Iowa citizens and the political environment of the Iowa Legislature. Educating the public will aid in generating this visibility and recognition by increasing public understanding of, support for, and confidence in the courts.

- **Implementation priority:** Medium/long-term
- **Related recommendations:** Delivery 2.5; Funding 3.2.

### **3.2 Educate Public on Multi-Option Justice — The Judicial Branch should develop educational programs on multiple forms of dispute resolution available in Iowa.**

**Rationale:** The Commission is proposing that the Judicial Branch establish and administer multiple forms of dispute resolution as part of the Iowa court system. Under this system, dispute resolution would take many forms, including not only formal litigation, but also mediation, arbitration and even the automated processing of simple cases.

The Commission's public opinion survey indicates growing public interest in and desire for alternative dispute resolution (ADR). While only 16 percent of survey respondents currently report having utilized some form of ADR, 70 percent of these individuals were highly satisfied with their ADR proceedings and outcomes. Moreover, fully 81 percent of all survey respondents would prefer using ADR to going to court, while more than half feel these techniques should be available within the formal court system itself.

In order to respond to public desire for greater access to ADR and to enable the public to both better understand and more effectively utilize these options, the Judicial Branch should promote and support comprehensive public education on multi-option justice. Citizens must be educated and informed about available dispute resolution options, their use, cost, and potential advantages and disadvantages.

In addition, the Judicial Branch should develop simple, user-friendly educational and training systems to help orient potential multi-option justice

system users in the actual use of available ADR methods and techniques. To this end, it should work with educational experts and state-of-the-art knowledge to develop and disseminate the best user-orientation techniques and information possible.

- **Implementation priority:** Medium/long-term
- **Related recommendations:** Delivery of Justice 1.2; Technology 3.4.

**3.3 Promote Juror Education and Feedback — The Judicial Branch should develop and implement a juror education and feedback program to inform jurors about the judicial system and to gather information on their experience as jurors.**

**Rationale:** Juries are one of the courts' most important and valued constituencies. The Commission's public opinion survey found that nearly one-quarter of Iowa's adult population had served as jurors. Unfortunately, the survey also found that these people were no more positive toward the courts than those who had never been jurors. These findings suggest that the Judicial Branch has overlooked a significant opportunity to enhance public awareness and support among a substantial number of Iowans.

The Commission's public opinion survey found that nearly one-quarter of Iowa's adult population had served as jurors.

Jurors represent a "captive audience" while engaged in jury duty. Educating them about court operations and their important role as jurors could be simple and cost-effective. Jury service also presents a unique opportunity for the public to evaluate the quality of the courts' performance, as well as to offer suggestions for change and improvement. Because the Judicial Branch oversees the jury process, it is best situated to generate, control, and effectively administer such juror education.

- **Implementation priority:** Short/medium/long-term
- **Related recommendations:** Delivery of Justice 2.5, 3.5; Funding 3.2.

**3.4 Support Court Education by Schools — The Judicial Branch should encourage and support Iowa’s schools in the development, funding and implementation of programs on the role of the courts, the importance of citizen participation in the judicial process, and awareness of societal problems confronting the courts.**

**Rationale:** Iowa’s youngest citizens are perhaps the state’s greatest asset. The future of Iowa’s courts is in the hands of these young people, who will as citizens serve as jurors or witnesses, work for the judiciary, or more generally, serve as trustees of the public faith in our legal process. A recent Harris Poll revealed that many young people feel that they can be involved in developing solutions to problems facing the courts and the criminal justice system through volunteer work and service projects. Schools and the judiciary can be partners in helping achieve mutual objectives. The courts and the bar should play an active role in assisting schools in educating the nation’s youngest citizens about the responsibilities of citizenship and how essential it is to the future of our state that Iowans understand and fulfill these responsibilities. Iowa is fortunate to have many teachers and schools working to improve understanding of the courts and democratic processes and a center dedicated to working with them to promote and enrich their efforts. There is an inherent public interest in having public funds support this educational mission in law-related and civic education. The Judicial Branch should support ongoing efforts at public education on the courts, including that provided by Drake University’s Center for Law-Related Education, as well support legislative funding of such efforts.

- **Implementation priority:** Medium/long-term

**3.5 Utilize Media for Education — The Judicial Branch should utilize television, newspaper, and radio media to educate Iowa citizens about the justice system and their role in it.**

**Rationale:** According to the Commission’s public opinion survey, television news is the most frequently used source of information about the courts. Four out of 10 Iowans surveyed report they frequently use television news

and local newspapers as their primary source of information concerning the Judicial Branch. Indeed, the survey results show that formal education is now being replaced by the mass media, particularly TV news, as the main source of knowledge about the courts.

The increasing role of the mass media in public education mandates that the Judicial Branch attempt to utilize that media more frequently and effectively in its efforts to educate Iowans about the courts and the justice system.

Regular outreach through the media may aid in educating a broader cross-section of the community than is accomplished by the formal education system. It may also generate greater and more diverse public support and input on issues affecting the Judicial Branch.

- **Implementation priority:** Short/medium-term
- **Related recommendation:** Funding 3.2.

### **3.6 Develop Court Internet Home Page — The Judicial Branch should establish a home page on the Internet to educate and inform the public.**

**Rationale:** As we move into the next century, the Internet will in all likelihood become an increasingly more viable mechanism for the dissemination and gathering of selected information by public institutions. It is entirely appropriate that the Judicial Branch take advantage of this mechanism as a means to educate and inform the public on the Iowa courts and justice system, and to solicit public feedback.

Via a court Internet “home page,” judges, lawyers, students, researchers, citizens and the media could have efficient and uniform access to Iowa court decisions and rules. Other pertinent information, such as this report, judicial studies, the organization of Iowa’s courts, key personnel, hours and locations of operation, court dockets and procedures, forms and rules, could be available for ready public access. The home page presents another medium through which the Iowa courts could communicate with court personnel, jurors, support services, and allied government bodies.

The Internet also could provide the opportunity for judges, lawyers and citizens to access the decisions of other court systems. County law libraries could be greatly supplemented by Internet access to legal materials.

- **Implementation priority:** Short-term
- **Related recommendation:** Technology 2.4.



"The future is not completely beyond our control. It is the work of our own hands."

—Robert F. Kennedy

## SUMMARY OF TEAM RECOMMENDATIONS

TEAM RECOMMENDATIONS		IMPLEMENTATION PRIORITIES				OTHER TEAMS' RELATED RECOMMENDATIONS
		Ongoing	Short Term (1-2 yrs.)	Medium Term (3-5 yrs.)	Long Term (6+ yrs.)	
<b>1.</b>	<b>Judicial Branch Planning</b>					
1.1	Establish Planning Function		✓			Funding 2.2, 2.3
1.2	Employ Planning Staff		✓			Delivery 3.3; Funding 2.2
1.3	Establish Planning Advisory Committee		✓			Delivery 2.5
1.4	Acquire Planning Systems and Resources			✓		Delivery 3.3; Technology 2.2; Funding 2.2
1.5	Develop Strategic Plans		✓	✓	✓	Funding 2.3
1.6	Promote Effective Communication		✓	✓	✓	Administration 3.2, 3.5; Technology 3.1; Funding 3.3, 3.5.3.6
1.7	Facilitate Organizational Change		✓	✓		Delivery 3.4; Administration 3.2, 3.3, 3.5
<b>2.</b>	<b>Data and Information Gathering</b>					
2.1	Analyze External Trends		✓	✓	✓	Technology 1.4; Funding 2.4
2.2	Conduct Needs and Attitudes Survey		✓	✓	✓	Administration 3.5
2.3	Anticipate and Assess New Legislation			✓		Funding 2.4, 3.4

3. Education						
3.1	Establish Public Education Function			✓	✓	Delivery 2.5; Administration 1.1; Funding 3.2
3.2	Educate Public on Multi-Option Justice			✓	✓	Delivery 1.2, 1.3; Technology 3.4
3.3	Promote Juror Education and Feedback		✓	✓	✓	Administration 1.2, 2.6; Delivery 2.5, 3.5; Funding 3.2
3.4	Support Court Education by Schools			✓	✓	
3.5	Utilize Media for Education		✓	✓		Funding 3.2
3.6	Develop Court Internet Home Page		✓			Technology 2.4



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