

Director of State Courts' Address
Wisconsin Judicial Conference
October 17, 2007
Green Bay, Wisconsin

“Individual commitment to a group effort—that is what makes a team work, a company work, a society work, a civilization work.” These are words from Green Bay coaching legend Vince Lombardi.

In our case, it is what makes a justice system work.

Look around the room; it is the strong individual commitment by those of you in this room to the principle identified by Governor Lucey in establishing the Citizens Study Committee on Judicial Organization, which was to “insure that all individuals have all their rights protected in an efficient and just manner,” that is responsible for making Wisconsin one of the best state court systems in the country.

Let's look at some of these commitments:

- The Supreme Court is willing to take a political risk by proposing a budget that provides more funding to counties for interpreters and general court operations. Where others see reasons for counties and the state not to get along, we've chosen to team up with our county partners and push for positive change.
- Judges looking for innovative ways to improve the service provided by the courts. This may be a drug court, a criminal justice coordinating council, or victim impact panel.
- Judges willing to take time out of their busy calendars to serve on statewide committees and testify on critical bills before the legislature.
- Court administrators working feverishly to best utilize limited resources, such as court reporters, to make sure court proceedings occur as scheduled.
- Clerks of circuit court willing to pilot new CCAP features, such as e-filing, in order for all of us to benefit in the future.

Chief Justice Abrahamson has outlined the numerous improvements that have occurred in response to a group of 40 individuals from outside the court system, meeting for over 18 months, because of their dedication for the quality of justice in the state.

As I was rereading the Citizens Committee report a few weeks ago, I was impressed with their foresight and appreciation for the value of a quality justice system. I also kept coming back to the same question - do people from outside the court system still realize what it takes to have a quality justice system in this state. Let me explain, by using a few issues identified by the committee, why this question gives me pause.

Judicial Recruitment and Retention

A quality justice system requires responsible, competent, and independent judges. In discussing this topic, the Citizens Committee had one objective in making its recommendations: "the recruitment and retention of the best possible judges for courts." As the committee noted, "the court system will never be better than the judges who staff it."

We have some of the best judges in the country, but I am starting to see developments that challenge our ability to attract and retain the best judges.

- Wisconsin's judicial compensation package continues to fall short when compared to standard benchmarks such as other positions within our state and local governments; the federal judiciary; and judicial salaries paid in other states. For example, Wisconsin circuit court judges rank fourth among five other Midwest states (Illinois, Michigan, Minnesota, Iowa, Indiana and Wisconsin) in terms of compensation and rank 28th nationally.
- A budget proposal would have resulted in limited funding available to provide salary increases in the coming biennium.
- A budget proposal would have required judges to contribute five-percent of their gross income to the Wisconsin Retirement System. These contributions are currently paid for by the state.
- A budget proposal would have eliminated judicial participation in the state program that allows all state employees, including elected officials, to convert accumulated sick leave at the time of retirement into credits to pay for the state retiree's group health insurance premiums. This fringe benefit is a significant component of the overall compensation package for judges.

As a result of less competitive compensation, we are seeing more judges resigning from the bench to take advantage of other opportunities. While this has not been a significant trend in the past, the increasing number over the past few years is beginning to raise flags. Further exacerbating this concern is the increase in judicial retirements. In 2007, judicial retirements were double the number in each of the previous two years. Based on the demographics of our judiciary, we expect the number of retirements to continue to increase over the next 10 to 15 years. Competitive compensation will be critical for a quality judiciary.

On the positive side, the chief's call to investigate the best mechanism for systematic salary updates is a step in the right direction.

In addition, each of the budget provisions that adversely affected judicial compensation were not included in the Governor's special session budget.

Equal Access to Justice

A quality justice system provides equal access. The Citizens Committee noted that the greatest single barrier to justice in Wisconsin is the inability, by reason of poverty, to obtain competent counsel. As I look at the system today, I see the following challenges:

We have a justice gap in Wisconsin. As the chief noted, the Wisconsin Access to Justice Report finds that more than half a million Wisconsinites must contend with significant legal troubles without any legal help. Here is an example as told in the report. It hit home with me because it could have been my mom in this story.

Seventy-eight-year old Edna owned her modest Milwaukee home free and clear. A home improvement company representative talked her into a new roof and siding for \$25,000. He “helped” her obtain a \$48,000 high-interest, high-cost home equity loan, then made unnecessary repairs to her house in an incomplete and shoddy manner. Edna refused to pay, but could not keep up with the loan, and the lender began foreclosure proceedings.

Thankfully in this case the Legal Aid Society helped Edna resolve the foreclosure proceeding, cancel the debt, and complete the work to the house, which she again owns free and clear.

She could be considered lucky because Wisconsin is one of six states that do not fund civil legal services. The others include: Alabama, Alaska, Idaho, South Dakota and Wyoming.

Meanwhile, our Midwestern neighbors have made a significant commitment to this area.

- Ohio - \$14 million
- Minnesota - \$12 million
- Michigan - \$7 million
- Illinois - \$5 million

In the criminal area, the continued use of a public defender eligibility standard that was outdated in the early 1990’s is causing problems. You know better than I do the individual consequences this outdated standard has on the administration of justice in our system.

This not only presents an access to justice issue, it also can be a financial burden on the counties asked to compensate for the lack of sufficient state funding for the public defender’s office.

On the positive side, we have gotten the attention of legislators from both political parties. It is my understanding that within the next couple of weeks we will see a bill that will update the eligibility standards to match those used in the W-2 program.

Justice System Resources

A quality justice system requires adequate resources and a team approach with our partners and stakeholders in the criminal justice system.

As the Citizens Committee noted, "In order to function properly, even within the ideal structural

organization and with ideal judges, the Courts must have sound administrative practices, the right number of the right types of personnel, adequate physical facilities, the means for obtaining timely information in useable forms, and adequate financing.”

We continue to face challenges in this regard.

We need additional judges. Using the most objective and direct measurement method available to measure judicial workload, we find that the system needs 18 more judges. Adequate judicial resources are essential if the Wisconsin court system is to effectively manage and resolve court business without delay while also delivering quality service to the public.

Currently the judgeship bill, which resulted from the updated weighted caseload study, is pending in the legislature. We have asked for 7 new judges. This bill is moving slowly primarily due to the stalled budget process. However, I expect it to pass out of a senate committee by the end of the month. From there we need the Joint Committee on Finance, the full Senate, the full Assembly, and the Governor to approve it. We requested that 6 of these judgeships start in 2008. This is beginning to look unlikely since we need the bill to become law by November 15 in order for elections to be held in April 2008.

We need additional prosecutors. A recent report from the Legislative Audit Bureau shows the state needs more than 100 more prosecutors to keep up with an increasing felony caseload. According to the report, the number of authorized FTE prosecutors has decreased by nearly 20 positions between 2002 and 2006. This situation requires prosecutors to make difficult decisions, including delaying prosecutions, not prosecuting some crimes at all, or settling cases out of court with lighter penalties.

We need reasonable local support. Financial strain in some counties has resulted in cutbacks in court budgets. In Milwaukee County, the courts are facing approximately \$3 million in cuts. This is at a time when the county auditors concluded that significant staffing cuts would negatively impact the pace of court operations. While Milwaukee is an extreme example, some smaller counties are also struggling with finances.

This is the reason we proposed increasing the funding level for the circuit court support payment program in the budget. By providing additional funding back to the counties, it was our hope that counties could continue to support the courts at a reasonable level. Unfortunately, at this point it appears that the additional \$19 million for counties will not survive the budget process.

On the positive side, the Governor’s special session budget does include a number of other initiatives proposed by the Supreme Court. These include:

- Increased county reimbursement for interpreter use,
- A position to work on initiatives relating to alternatives to incarceration and self-represented litigants,
- A position to assist in creating a uniform chart of accounts for counties so we can best determine the cost of running the court system and future funding,
- A position to leverage additional federal funding so we can continue our leadership in improving the processing of child abuse and neglect cases, and

- Statutory language to allow us to charge a convenience fee for the use of e-filing, which will allow us to expand this feature beyond the two pilot counties.

For my part, I take Governor Lucey's remarks to the Citizens Committee in which he stated "the mechanism for justice must be carefully protected and cared for" as words to live by.

I will continue to keep you informed of developments that affect our ability to provide a quality justice system. I've heard positive feedback from many of you about the effectiveness of keeping you informed through my Webcasts. I will continue these in the future.

In the spirit of Vince Lombardi, you have my individual commitment to continue fighting for the group goal of providing a justice system envisioned by the Citizens Committee — a justice system that provides top-notch judges, equal access to justice and resources needed to make it possible.

Thank you.