

STATE OF THE JUDICIARY ADDRESS 2021



Chief Justice Annette Kingsland Ziegler

Wisconsin Supreme Court

P.O. Box 1688

Madison, WI 53701

(608) 266-1881

Annual Meeting of the Wisconsin Judicial Conference

November 3, 2021

Green Bay, Wisconsin

Greetings everyone! Welcome to the 2021 Wisconsin Judicial Conference. Thank you to the Brown County Sheriff Department's Color Guard and Brown County Sheriff Todd Delain for taking time out of your busy schedules to present the Flag and lead us in the Pledge of Allegiance to open our conference.

It's great to see so many familiar faces and to hear your voices in person.

I hope by now you've had a chance to connect with some old friends and meet some new colleagues. Networking is one of the biggest benefits of a conference like this. We not only learn from the presenters and educational materials, we learn from each other.

Experienced judges and new judges alike exchange ideas and share their knowledge and experience. Please take advantage of this opportunity to introduce yourselves and get to know each other.

I'd like to introduce my fellow justices.

Justice Ann Walsh Bradley
Justice Patience Drake Roggensack
Justice Rebecca Grassl Bradley
Justice Rebecca Frank Dallet
Justice Brian Hagedorn
Justice Jill Karofsky

I want to thank the justices for their dedication and hard work, not only in deciding cases, but also for guiding the courts through a challenging time. We don't always agree with each other on the issues that come before us, and that is natural. But I assure you we are all working together for the success of the court system.

I also want to thank the people who planned and organized this year's conference, including: the Judicial Education Committee, the Judicial Conference Planning Committee and its Co-Chairs, Judge Maria Lazar of Waukesha County Circuit Court and Judge Wendy Klicko, Sauk County Circuit Court, as well as Morgan Young, Director of the Office of Judicial Education, and her staff. This promises to be a great conference.

It's become a tradition at the Judicial Conference to honor and recognize former judges who passed away during the last year.

Justice Shirley S. Abrahamson, Wisconsin Supreme Court
Judge Michael J. Barron, Milwaukee County Circuit Court
Judge Richard A. Congdon, Waukesha County Circuit Court
Judge James P. Czajkowski, Crawford County Circuit Court
Judge John V. Finn, Portage County Circuit Court
Judge Mark S. Gempeler, Waukesha County Circuit Court
Judge Kent C. Houck, Richland County Circuit Court
Judge William A. Jennaro, Milwaukee County Circuit Court

Judge John D. Koehn, Door County Circuit Court
Judge Roger W. LeGrand, Jr., La Crosse County Circuit Court
Judge Mark A. Mangerson, Court of Appeals District 3 and
Oneida County Circuit Court
Judge Gordon Myse, Court of Appeals District 3 and
Outagamie County Circuit Court
Judge S. Dean Pies, Kewaunee County Circuit Court
Judge John R. Wagner, Grant County Circuit Court
Judge Virginia Wolfe, Sauk County Circuit Court

We also recognize new judges and judges who have taken on new roles during the last year. This year, we have two newly elected judges at the Court of Appeals:

Judge Gregory B. Gill, Jr., formerly of Outagamie County Circuit Court, in District Three;
and

Judge Shelley Grogan in District Two.

We also have a number of new circuit court judges who have joined us since last year's conference.

Judge Patricia A. Baker, Portage County Circuit Court
Judge Samantha R. Bastil, Sheboygan County Circuit Court
Judge Kristin M. Cafferty, Racine County Circuit Court
Judge Andrew J. Christenson, Fond du Lac County Circuit Court
Judge Scott M. Corbett, Marathon County Circuit Court
Judge Paul G. Czisny, Fond du Lac County Circuit Court
Judge Daniel S. Diehn, Jackson County Circuit Court
Judge Gerad T. Dougville, Kenosha County Circuit Court
Judge Angelina Gabriele, Kenosha County Circuit Court
Judge LaKeisha D. Haase, Winnebago County Circuit Court
Judge Katie B. Kegel, Milwaukee County Circuit Court
Judge Christina M. Mayer, Dunn County Circuit Court
Judge Martha J. Milanowski, Vilas County Circuit Court
Judge Faun M. Phillipson, Green County Circuit Court
Judge Carey J. Reed, Calumet County Circuit Court
Judge Yadira J. Rein, Outagamie County Circuit Court
Judge Elizabeth L. Rohl, Pierce County Circuit Court
Judge Mark G. Schroeder, Outagamie County Circuit Court
Judge Luke M. Wagner, Dunn County Circuit Court
Judge Tricia L. Walker, Fond du Lac County Circuit Court

I've been a judge since 1997, when I started on the Washington County Circuit Court. I am very proud to be part of the Wisconsin Judiciary.

You have all done extraordinary work during the last year and a half in the face of some difficult and unexpected challenges.

And when I say “you,” I mean all of you – not only judges, but also leadership, administrators and staff. Everyone has stepped up to keep our courts operational and cases moving.

This includes Randy Koschnick and the Director of State Courts Office, Deputy Directors Diane Fremgen at Court Operations and Caitlin Frederick at Management Services and their staff.

It includes Jean Bousquet and her staff at CCAP. It also includes the Office of Judicial Education, the Clerk of Supreme Court and Court of Appeals and the State Law Library. And it includes all of the staff at Court of Appeals and the Supreme Court.

Virtually every job was affected by the pandemic. And it’s easier to see now, more than ever, how much we all depend on each other for success. Can you imagine having gone through this without CCAP tech support? Or how about without a DCA who managed to solve a problem that threatened to jam court calendars in two or three counties at once?

This also extends to our justice system partners: the State Bar of Wisconsin, the local bar associations, prosecutors, defense attorneys, clerks of court, court security, county boards and administrators, and all of the people who work behind the scenes to keep our courthouses open. When one part wanes, it can affect the rest of the system.

Thank you to all of our justice system partners for their support and continuing cooperation. Ultimately, people got creative and found new ways to get the work accomplished. The last year and a half may not have felt like a success as it unfolded. But when you look at it in terms of how people responded, and what we’ve accomplished, it definitely was a success. We also learned a few things that will make us a better and more efficient court system in the long run.

Another way to say it: We will take some of what we learned to survive, and we will use it to thrive.

I want to highlight a few success stories, starting with judges.

Many of you have taken on some work you didn’t anticipate when you became a judge. And these tasks aren’t captured in the usual job descriptions.

The U.S. Bureau of Labor Statistics describes the job of a judge as, *“Judges and hearing officers apply the law by overseeing the legal process in courts.”*

The job website *Indeed.com* elaborates by explaining:

“A judge oversees a trial or hearing, serving as an impartial referee and making decisions on which arguments, questions and evidence are admissible. Judges may determine the extent of punishments levied . . . In some trials, a judge is also responsible for handing in a ruling in the case. Although many judges hear

cases alone, some judges serve on courts that feature multiple judges who all hear the same case at the same time and deliver rulings on majority rule.”

That tells us a little more.

The American Bar Association makes the well-known comparison of judges to umpires:

“Their role is to see that the rules of court procedures are followed by both sides. Like the ump, they call ‘em as they see ‘em, according to the facts and law – without regard to which side is popular..., without regard to who is “favored,” without regard for what the spectators want, and without regard to whether the judge agrees with the law.”

I have no interest in launching a debate on the role of a judge in a room full of judges. But it’s pretty clear these descriptions don’t cover all of the tasks some of you have taken on since the start of the pandemic.

- Some of you have worked as real estate brokers, negotiating deals for additional jury or courtroom space in county board rooms, conference centers, schools, or even a nearby movie theater.
- Some of you have worked as construction project managers, working with county officials to make sure that new construction projects or remodeling will meet the needs of the courts.
- Some of you have worked as logistics analysts, keeping cases moving in light of a number of changing variables related to staffing, courtroom availability and equipment.

Many of you have taken on new challenges, and your extraordinary work has helped keep our courts operational.

In fact, all of our courts are back to holding in-person appearances and jury trials.

That is a success story.

If this was just two years ago, this wouldn’t sound like much of an accomplishment. It would have been a pretty low bar. But this is an achievement, considering the many challenges presented by the pandemic.

The volume of in-person proceedings varies by county because each county has its own set of circumstances, but all counties are making progress. Some of our larger counties face bigger challenges, and not all parts of the justice system are ready to go. It will take longer for some counties to get back to more normal case-processing levels.

In the meantime, many of our smaller and mid-size counties have been holding trials for months, or in some cases more than a year.

In District Nine, one of our more rural districts, Judge Ann Knox-Bauer took to Zoom early as a way to keep cases moving in Taylor County. Other District Nine judges followed her lead, and helped keep backlogs to a minimum.

District Nine courts have returned to holding primarily in-person hearings, but Zoom continues to be an effective tool in making courts more accessible and more efficient for some appearances.

Large areas of District Nine, for example, don't have public transportation, so allowing Zoom appearances in early stages of cases has likely improved appearance rates. Or, looking at it another way, we think Zoom has helped lower "failure to appear" rates.

People who otherwise may not be able to make a court appearance for any one of a number of reasons may be able to do so via Zoom, sometimes saving the need for time off work or childcare. This is true in more populous counties, as well.

In La Crosse County, for example, Zoom made it possible for Judge Ramona Gonzalez to grant a divorce in one case that had been hung up for years. The woman had tried to get her divorce finalized, but her work on a road construction crew and being unable to determine her husband's whereabouts, made this nearly impossible. The woman appeared for a status hearing via Zoom during a work break and mentioned that her husband had been in jail. The court dialed the phone number her husband gave the La Crosse County Jail at discharge, and was able to reach his mother, who said the man was in custody in another county. With cooperation from that county jail and support from the woman's supervisor on the road job, Judge Gonzalez was able to get them amicably divorced later that day via Zoom.

Judges are also using Zoom to handle some out-of-county appearances without having to travel between distant courthouses or even multiple courthouses in a single day.

Zoom has also made it possible for defense attorneys to appear remotely with defendants in areas where attorneys may be in short supply. I want to thank the Bar for all of its support and for how well attorneys adjusted during the last year and a half.

This has not only improved access to legal representation, but has also helped keep cases moving. Zoom has also proven to be a better option than some of our older videoconferencing equipment to handle appearances from jail.

We are also taking steps to enable parties to communicate via Zoom if they don't have access to reliable Internet or electronic devices. The Children's Court Improvement Program is providing federal grant money for remote access spaces, mostly at courthouses.

To date, 26 counties in eight judicial administrative districts have purchased or installed equipment as part of this effort. These remote access points allow case participants to more readily communicate with attorneys or to participate virtually in court hearings. We anticipate more counties will be added by the end of the year.

Zoom is not appropriate for every proceeding, but it has made a huge difference during the pandemic and will remain a useful tool.

That is another success story.

In a few minutes, Judge Koschnick will discuss additional ways we are taking advantage of technology, but there's more to making technology work for us than just equipment. It takes people who are *willing* to use it, and are *capable* of using it.

If this was the Judicial Conference of 2019, and I started talking about "Zoom," none of you would have known what I was talking about. I know I hadn't heard of it.

Some of us were not as familiar with technology and maybe not as interested as some in expanding our knowledge beyond the courtroom computer.

But eventually, you adjusted—some more quickly than others—but you did it. Maybe you saw the value of Zoom in keeping cases moving, or maybe you were nudged by your Chief Judge, DCA, or the Director's Office. Or, maybe your kids told you Zoom was kind of cool. However it happened, thank you.

The work of a judge and the role of the courts are too important to put off, and your willingness to adjust has helped us avoid potentially larger backlogs. We are way ahead of where we would be otherwise.

I would call that a success story.

When the pandemic hit, we were better positioned than many other court systems throughout the U.S., because we already had a solid eFiling system in place in our circuit courts. This enabled attorneys to file documents without having to make a trip to the courthouse. And it allowed opposing attorneys, clerks of court staff and judges to more easily access filings to help keep cases moving.

We built on that success by making eFiling mandatory in the Court of Appeals as of July 1 of this year. Appellate eFiling holds all the same advantages as eFiling in the circuit courts, and we'll continue to realize those benefits long after COVID-19 has passed. The Supreme Court is not too far behind on eFiling. We have two cases that are proceeding as part of an eFiling pilot project, and we have the rules and framework in place to move ahead when the time is right.

Thanks to CCAP and Clerk of Supreme Court and Court of Appeals Sheila Reiff and the Appellate eFiling task force for making this work.

We probably could have decided to hold off on appellate eFiling, but the advantages are too numerous. So we launched mandatory eFiling in the Court of Appeals during the pandemic.

That is another success story.

Technology isn't the answer to everything. Some counties have found success in addressing backlogs by redistributing resources and working cooperatively with local justice system partners.

In Waukesha County, for example, Chief Judge Jennifer Dorow collaborated with the county executive and administrators, the district attorney's office, the victim-witness coordinator, the Sheriff's department, the district court administrator, the clerk of courts office and others on a plan to increase capacity for criminal cases to address the backlog caused by the pandemic.

Beginning in January 2022, this plan will reallocate a judge to the criminal traffic division from the family division for a two-year period. The clerk of courts office, the district attorney's office and the sheriff's department are utilizing American Rescue Plan Act dollars to hire temporary staff in support of the additional criminal traffic court.

The plan includes two part-time court commissioners, court staff, three special prosecutors, DA staff, including a victim-witness specialist and an additional sheriff deputy for courtroom security. The county board approved allocation of this funding to hire and train these people prior to the start date of the added criminal court calendar.

This plan would not have been possible without the vision of Judge Dorow and the work of District Court Administrator Mike Neimon, clerk of circuit court Monica Paz, her staff and other court officials who worked on redistribution of the criminal and family caseloads and created family calendars for the part-time court commissioners.

This plan also would not have been possible without the opening of Waukesha County's new secure courthouse addition, which provides seven courtrooms and an intake courtroom with direct access to the jail and inmate holding.

New building projects and courthouse remodeling projects create opportunities to upgrade courtroom technology and security. We are taking advantage of every opportunity we can to improve the efficiency and effectiveness of the court system.

To put all this together in Waukesha, Chief Judge Dorow wore at least a couple of hats, including that of Logistics Analyst and Construction Manager. If any other chief judges have survived a courthouse construction project in your district, you know how challenging this can be, even when there's no pandemic.

That is a success story. Thank you, Chief Judge Dorow.

I also want to recognize First District Chief Judge Mary Triggiano, who has faced some challenges the rest of us have not had, due to the sheer scale of operations in Milwaukee County Circuit Court. Barely a month had passed since she became chief judge when the pandemic hit.

Milwaukee was the first county to really feel the impact of COVID-19, and she was ahead of the curve in addressing it. On March 14, 2020, she announced the cancellation of some proceedings as a temporary precaution to help prevent the spread of coronavirus.

This was the first such administrative order in the state, and it came just days after the governor's emergency declaration and about a week before the Supreme Court's initial temporary order regarding in-person proceedings.

Chief Judge Triggiano, along with her deputy chief judges, Carl Ashley and William Pohan, and District Court Administrator Holly Szablewski began working closely with county officials, other judges, the bar and partners throughout the justice system. The challenge at that time was to manage the aftermath of suddenly closing down in-person proceedings in 47 circuit court branches.

Chief Judge Triggiano updated administrative orders and directives in line with Supreme Court orders. She made virtual media appearances along with other justice system partners, including prosecutors, defense attorneys, and county officials. She kept the legal community and the public informed and let everyone know that everyone was working together to ensure what could be done was being done.

Now, the challenge—and I do mean a tremendous challenge—is in transitioning back to more in-person proceedings.

Chief Judge Triggiano and her court team continue to meet with leaders of the county's recovery team as they work collaboratively to re-open court space. They have done an amazing job.

This may not feel like a success story, but it is. Thank you, Chief Judge Triggiano.

And finally, I want to recognize former Chief Justice Pat Roggensack. I've been fortunate as Chief Justice to have her available as a resource, and the court system is much better off for having had her in leadership. Without her direction, we'd be in a more difficult situation overall. Early on in the pandemic, she convened the Wisconsin Court System's COVID-19 Task Force. This group included wide-ranging representation from the legal community and medical experts from the U.W. School of Medicine and Public Health. The Task Force report, which included recommendations for precautions to be taken during the pandemic, served as a guidepost for courts statewide—and still does.

On top of that, I want us all to recognize Justice Roggensack for her initiative on judicial compensation. I think she undertook this effort just about the same day she became chief justice. And she never let up. We are now seeing the results of her work in this area, with Wisconsin finally climbing out of the bottom of the rankings in judicial compensation.

Justice Roggensack, thank you for all of your dedicated work as Chief Justice. Let's hear it for Justice Roggensack!

Thank you.