

Question: Can night or after-hours court reduce space problems experienced by the District Court in Polk County?

Answer: No. The experience of trial courts nationally indicate costs of after-hours adjudication generally outweigh any benefits derived. The exception is jail court sessions (i.e. initial appearances) which Polk County already operates.

Background: Evening, after-hours or week-end courts are occasionally seen in courthouses across America. Generally, the objective targets increased public access to adjudication services and more convenience for litigants in not having to miss work or take time from other daytime activities to handle court business. Commonplace dockets include high-volume, non-jury matters such as traffic infractions, small claims, landlord-tenant (unlawful detainers), petty misdemeanors, game and fish crimes, and ordinance violations. Occasionally, higher order general jurisdiction matters such as uncontested/default divorces, various family court matters including child support enforcement and modifications, Domestic violence petition filings/hearings, adoptions, victim initiated cases (domestic and neighborhood disputes), low-level drug court proceedings, and juvenile status offenses (i.e. smoking, curfew, truancy). In courts throughout the United States, however, night court has not proven to be a substitute for the bulk of civil, criminal, family or juvenile court dockets.

Numerous courts and state judicial systems have experimented with night court in the last decade according to the National Center's Knowledge and Information Services. A 2003 survey by the National Center for State Courts concluded that 23 states had active night courts in one or more communities. Today, due to budget constraints, there are appreciably fewer states operating courts outside of normal business hours.

Many courts found that costs in adjudicating cases after hours, even small issue matters, do not outweigh benefits. As an example, security expenses in keeping the courthouse open, or in the alternative, operating in outlying makeshift locations is expensive. Often, courthouses are in older, less secure downtown sections of cities creating safety issues for summoned litigants having to negotiate parking lots and streets and garages near the court complex. In some instances, court employees who serve after-hours may work a "flex-time" schedule, allowing them to substitute after-hours time for daytime working hours. No real savings in personnel costs result and daytime staffing is correspondingly reduced. Where employees are paid FOR additional hours, it represents a new cost. At a minimum, staffing would include public lawyers, clerks, court attendants, custodial and security staff. Where unions represent court staff, shift differentials and overtime is often an issue.

The benefits touted for after-hours court operations usually center on three things: improved access to justice for the public (i.e. no need to take time off from work; for some, better child care solutions are possible), reduced overtime for law enforcement officers regarding traffic or ordinance violation hearings heard after-hours when officers may be working their regular shifts, and decreased trial court delay where case

processing is a problem. Each of these benefits is questionable when compared to the actual experience of the courts that have experimented with after-hours operations. First, many night and weekend courts have been abandoned because few people opted to voluntarily come to court on their “free time.” No shows and requests for continuances were even more prevalent regarding respondents and witnesses in civil actions who were subpoenaed. The result: significant rescheduling occurred in many situations. Also, given the fact that evening and weekend bus service to the downtown court district is limited, it is likely many would view it as a hardship and choose not to appear. Second, pulling police officers off patrol at night and on weekends affects the very time they are most needed on the streets. Correspondingly, NCSC studies have found that by docketing in a collaboratively manner with law enforcement agencies via integrated computer systems police officer overtime can be more effectively reduced during regular daytime court sessions. Lastly, a backlogged court normally has systemic, organization, and management issues as the primary causes of trial court delay, not the lack of time available to handle cases. Rarely would the addition of two or three hours in an evening or on a weekend considerably reduce a clogged calendar without substantial management changes.

Avoiding congestion and overcrowding in a courthouse is an unusual justification for adjudicating matters after hours given the above findings and facts. Substantial after hours calendaring would certainly be needed to make a noticeable impact during the business day at the Polk County Historic Courthouse. That, of course, would face increased costs and difficulties as outlined.

Analysis: Iowa as a state has not experimented in the past with after-hours and evening court sessions according to National Center survey data. That is not to say that Polk County judges are not available at night, or on weekends and holidays. Indeed, not unlike judges in other states, they are on-call for search warrants and mental health commitments after hours. An associate district judge is on duty Saturdays, Sundays and holidays in the new jail arraignment courtroom. A juvenile judge conducts a specialized truancy court every other Wednesday evening during the school year at the Des Moines City Council chambers. Polk County court leaders have debated the issue of opening the courthouse for night court on various occasions in the past, but have concluded that the benefits do not outweigh the taxpayer costs.

Many short cause, non-jury matters appropriate for after-hours scheduling either have been moved from the Historic Courthouse (i.e. suburban traffic infractions, small claims, mediation) or are being discussed as candidates for relocation (i.e. Des Moines traffic infractions). The removal of selected high volume, stand-alone matters out of the Historic Courthouse entirely would appear to be a better option in reducing congestion.

Advice: Given the experience of other courts with after-hours calendars, and the likelihood that such a solution would not materially reduce overcrowding in the courthouse, it is not recommended as a viable space solution by the National Center.