

# Court Funding: A National Perspective

Michigan Trial Court Funding Commission

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Daniel J. Hall

Vice President, National Center for State Courts

# What is the Status of Court Funding Nationally?

# Funding Sources For Trial Courts

- STATE GENERAL FUND
- STATE SPECIAL FUNDS
- COUNTY GENERAL FUNDS
- COUNTY SPECIAL FUNDS
- STATE OR COUNTY CAPITAL FUNDS
- MUNICIPAL GENERAL/SPECIAL FUNDS
- GRANT FUNDS/REIMBURSEMENTS
- PRIVATE FUNDS

# Court Funding

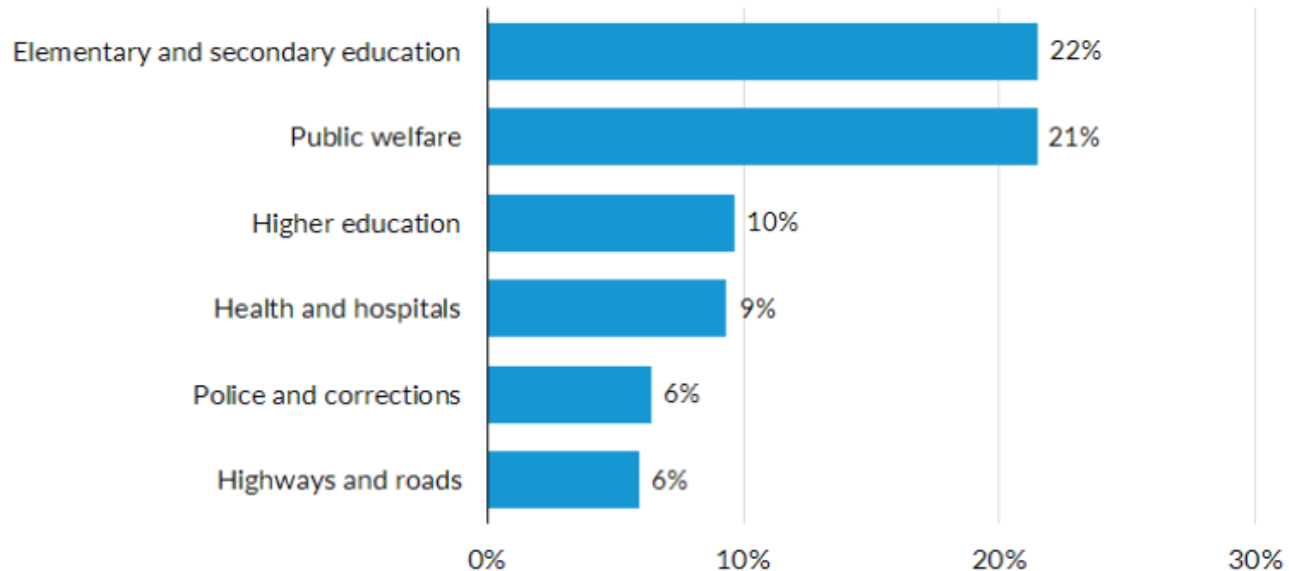
COURTS CONSTITUTE LESS THAN .5% to 4% OF STATE BUDGETS

THE AVERAGE IS 1.7 % AND THE MEDIAN IS 1.6%

[www.ncsc.org/sco-table1%203b](http://www.ncsc.org/sco-table1%203b)

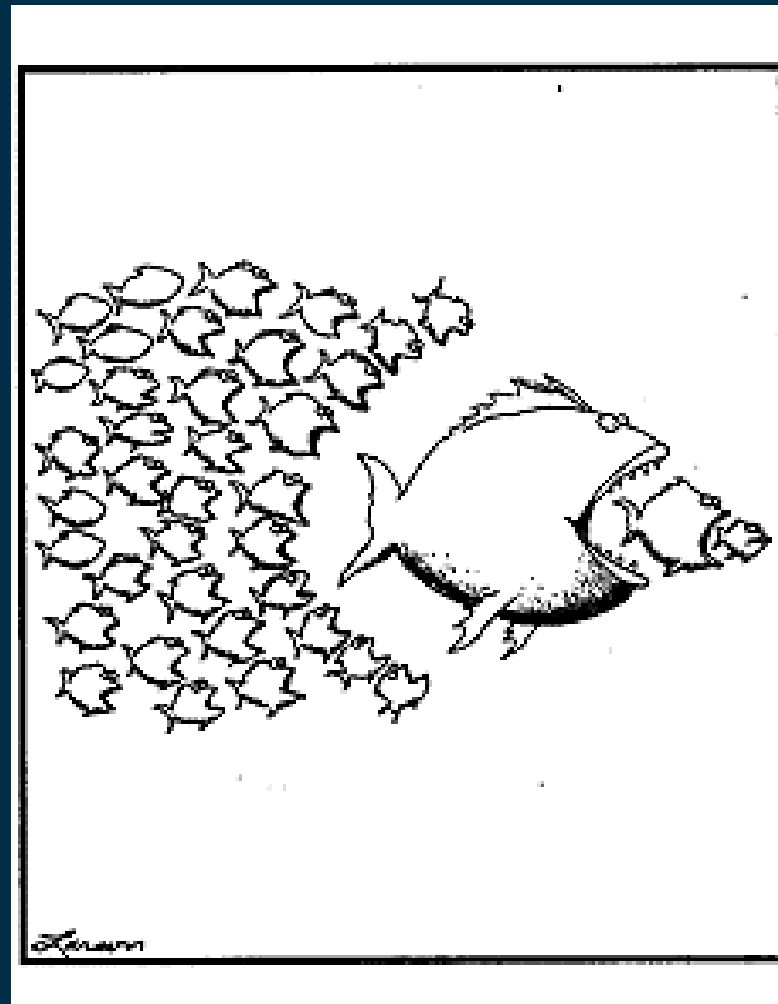
## State and Local General Spending

By functional category, fiscal year 2015



Source: US Bureau of the Census, Survey of State and Local Government Finance, 2015.

# Competition for Limited Funds



## STATES BY POPULATION RANK, REGION, AND LEVEL OF STATE FINANCING

West/Texas

Midwest/Plains

South

Northeast

Pop Rank	Mostly State \$	Mostly Local \$	Mostly State \$	Mostly Local \$	Mostly State \$	Mostly Local \$	Mostly State \$	Mostly Local \$
1-8	California	Texas		Illinois Ohio Michigan Penn	Florida		New York	
9-20		Wash Arizona	Missouri	Indiana Wisc.	N. Car Virginia	Georgia Tenn.	NJ Mass Maryland	
21-29*	Colorado Oregon		Minn.		Alabama Kentucky	Louis. S. Car.	Conn.	
30-50	Montana Alaska Utah New Mex. Hawaii Wyoming	Nevada Idaho	S. Dak N Dak Iowa Kansas Nebraska		Arkansas West Va.	Miss.	RI Delaware Vermont Maine N. Hamp.	

\* Oklahoma has a uniquely fee-funded system.

# Current Status Of State Financing

- 12 STATES: STATE FUNDS LIMITED ONLY TO JUDICIAL SALARIES
- 9 STATES: STATES GOVERNMENT COVERED 90-100% OF ALL TRIAL COURT EXPENSES
- OTHER 60% OF STATES: ROLE OF STATE FUNDING INCREASES WITH LEVEL OF COURT

# Midwest/Plains Comparison

Pop Rank	Mostly State \$	Mostly Local \$	% State Funded
1-8		Illinois	1.00
		Ohio	.50
		Michigan	1.90
		Pennsylvania	.50
9-20		Indiana	1.00
		Wisconsin	.80
30-50	Minnesota		1.70
	So Dakota		2.80
	No Dakota		1.00
	Iowa		2.50
	Kansas		1.60
	Nebraska		NA



## How Are Selected Expenditures Funded?

- Judicial Salaries—All Midwest general jurisdiction judges are state funded
- Clerks of Court positions vary depending on whether elected or appointed and whether centralized system
- Funding for trial court administrators, court staff (including court reporters) is driven by the degree a system is state or local funded
- Probation is housed in the Judiciary in some states and in the executive branch in others
- Funding of indigent defense services vary
- Dedicated Funds

# Dedicated Funds From Fines, Fees & Surcharges

Purpose of Dedicated Fund	Number of States
Judicial Personnel	19
Non-judicial Personnel	20
Facilities	16
Security	18
Technology	33
Judicial Education	21
Judicial Performance Evaluation	2
ADR	12
Other (e.g. Policy Development, Interpreters, Case Management)	12

# What Are the Filing Trends?



# Question

HOW AND WHY DID WE GET TO WHERE WE  
ARE TODAY?

# The Conventional View: ABA Standards on Judicial Administration

1.10 Unified Court System: The aims of court organization can be most fully realized in a court system that is unified in its structure and administration, staffed by competent judges, judicial officers, and other personnel, and that has uniform rules and policies, clear lines of administrative authority, and a unified budget. The structure should be simple consisting of a trial court and an appellate court, each having divisions and departments as needed.

# Local Financing Up To 1960

- TRIAL COURT SYSTEM LOCALIZED
- FUNDING FROM COUNTY, CITY, FEES
- ONLY APPELLATE COURTS STATE-FUNDED
- SUPREME COURT DETACHED

# Early Pressure For State Help

- TRIAL COURTS BECAME MORE COSTLY
- COUNTIES BALKED AT HIGH-PAID PERSONNEL – FIRST JUDGES
- FIRST SERIOUS CONSIDERATION OF SHIFTING BURDEN TO STATE 1960s



# Reformers Target Local Financing

- DISPARITY IN LOCAL RESOURCES
- ADMINISTRATIVE CHAOS IN COURTS
- ORGANIZATIONAL CHAOS
- UNIFICATION ADVANCED AS A WAY TO IMPROVE SYSTEM
- IDEA OF BUDGETARY UNIFICATION

# Counter Arguments

- REGIMENTATION, CENTRALIZATION BY STATE LEVEL JUDICIARY
- LOSE LOCAL ORIENTATION
- STATE FUNDING NOT SECURE AND FAR MORE REMOTE

# Shift To State Financing 1970's

- BY LATE 70'S 13 STATES HAD GONE TO STATE FINANCING
- OTHER STATES ASSUMED SOME EXPENSIVE ITEMS
- SCA'S COME INTO BEING – TRIAL COURT BUDGET A BIG CONCERN
- NEED FOR TCA'S TO HELP WITH BUDGET

# Shifting Rationale For State Financing 1980's

- COUNTIES ASSUME LEAD IN PUSHING STATE FINANCING
- REFORM SECONDARY
- COURTS TOO COSTLY FOR MOST LOCAL GOVERNMENTS
- NEW: IT, COURT ADMIN, MANDATES, JUVENILE, GENERAL GROWTH, PROFESSIONAL SERVICES

# Current Status Of State Financing

- 33 STATES AND THE 5 US TERRITORIES ARE PRIMARILY STATE-FUNDED;
- MINNESOTA IS THE LAST STATE TO MOVE TO STATE FUNDING
- NORTHEAST ALL STATE FUNDED

# Effects Of State Financing

- POWER SHIFT TO STATE-LEVEL JUDICIARY
- LESS DISPARITY, MORE PROFESSIONAL
- MOST COUNTIES BENEFIT, NOT ALL
- STATE NO SURE FUNDING SOURCE
- COUNTIES STILL IN PICTURE

# **How Have the Various Funding Strategies Fared During Economic Downturns?**

# **What Is the Relationship Between Court Funding and a State Administrative Structure?**



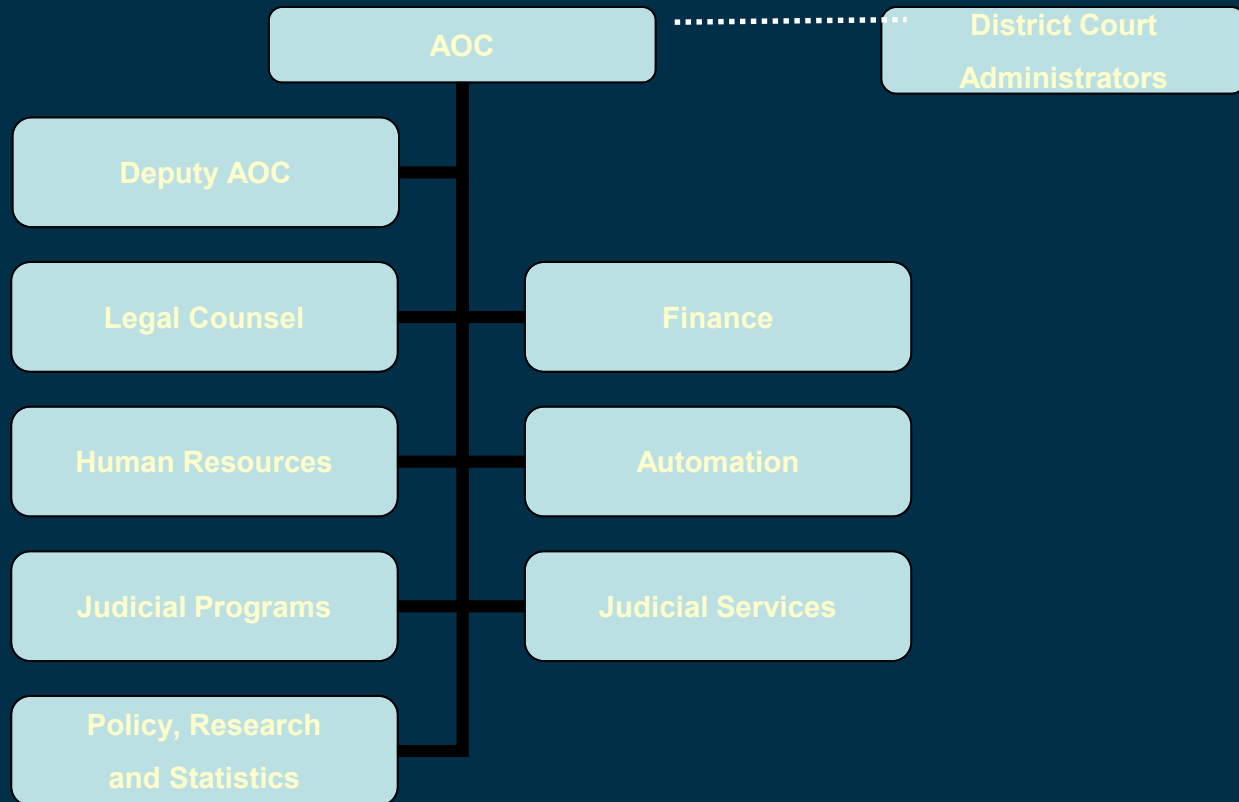
# General Functional Responsibilities of a Central Administrative Office

- Funding
- Policy decisions
- Policy compliance
- Trial court administration
- Relationship between the state-level administrative body and the trial courts

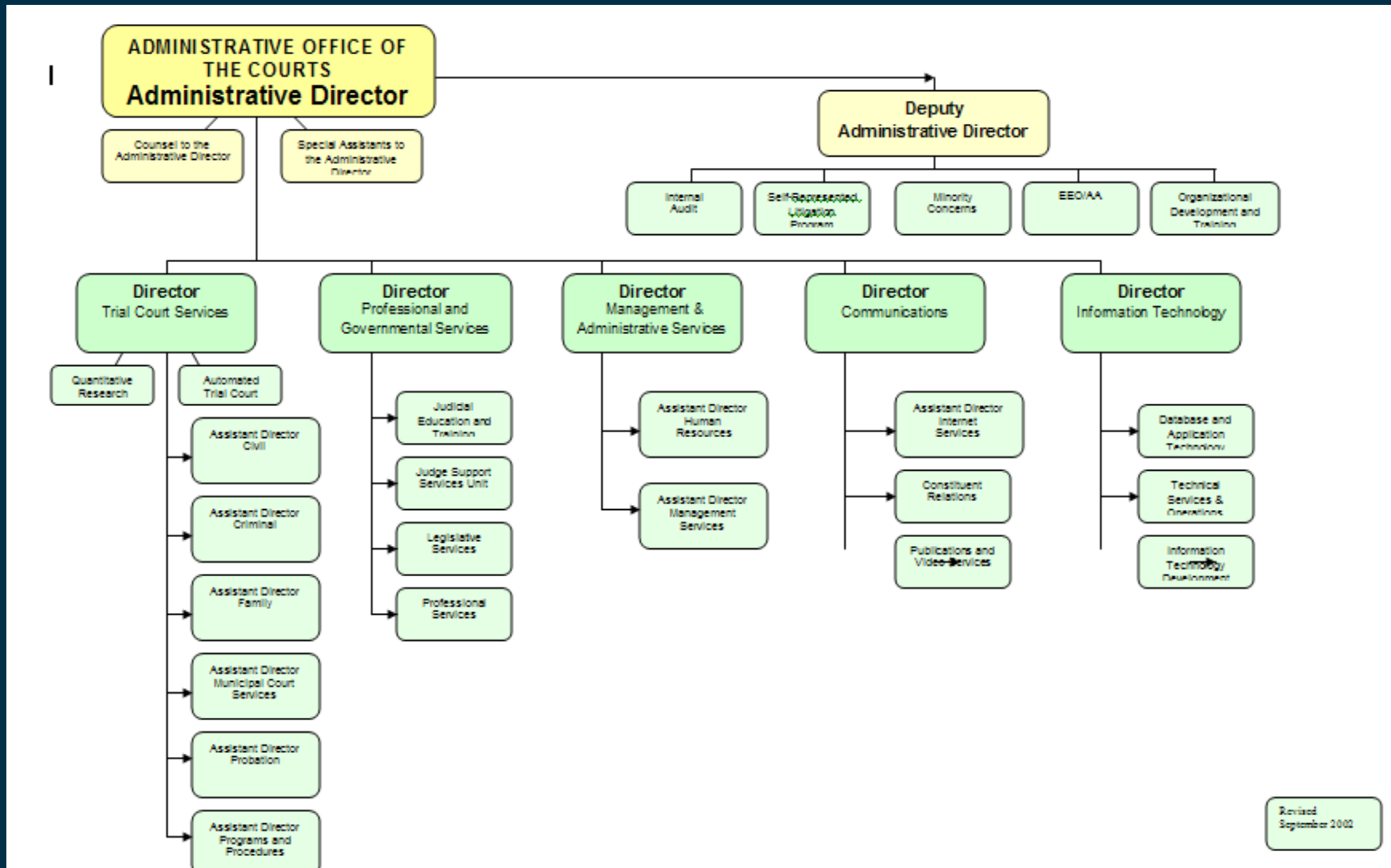
# Alternative AOC Administrative Models--Ohio



# Alternative AOC Administrative Models--Pennsylvania



# Alternative AOC Administrative Models—New Jersey



## The Reality: Unified in Structure and Administration

- Trial Court Administration: There is a variety of administrative models used in trial court administration, with no single model being used in all administrative areas in most states
- Case and Assignment Management in Trial Courts: Most states manage case types on a local level—local judges assign cases and manage case flow from assignment to disposition
- Alternative Legal Services: No single style of administration or funding emerges in the Alternative Legal Services Area: states are using what they can to reach as many people as possible

Source: The Three Core Values of Trial Court Administration—Communication, Consensus and Compliance

# The Reality: Unified in Structure and Administration (Continued)

- Fiscal Management: Most states use a state-level administrative model when creating the budget for trial courts
- Policy Making: CJ is the constitutional head of the Judicial Branch in all states. Most states use advisory committees with varying degrees of authority
- Human Resources Management: Most states have advisory committees to the CJ. The use of these committees vary
- Compliance. Compliance with state level-policy is least enforced in those states with a combination of state and local funding.
- Outside Influences. The Legislature has the largest influence on judicial policy even in states with locally funded trial court systems.

# How Does Judicial Leadership Factor into Court Funding?

# Judicial Leadership Roles

- Chief Justice
- State Court Administrator
- Presiding Judge
- Trial Court Administrator



# Conference of Chief Justices and Conference of State Court Administrators

- *COSCA Position Paper on State Judicial Branch Budgets in Times of Fiscal Crisis*
  - *CCJ/COSCA Resolution 22 Judicial Branch Budgets in Times of Fiscal Crisis. Adopted January 2004.*
- *COSCA Position Paper on Effective Governance and Accountability. December 2001*
  - *CCJ/COSCA Resolution 23 in Support of Effective Judicial Governance and Accountability. Adopted January 2004.*

# Overarching Fiscal Principles Courts Should Be Able To.....

- Obtain a fair share of government expenditures
- Obtain a share of the revenue they collect
- Make flexible multi-year use of their share
- Move appropriated funds more freely among budget categories
- Be free from various executive branch financial management and personnel constraints
- Carryover savings and unspent appropriations.

**CCJ/COSCA**

***“Principles for Judicial Administration”***

**What Are Principles to Guide Courts and Funding  
Bodies?**

# Principles for Judicial Administration

## Governance

- Loosely coupled nature

- Dependency on other branches of government

## Decision Making & Case Administration

- Prioritize scarce resources

## Funding

- Dependency on other branches of government

- Expanding role

- Inability to control demand

# Managing Budget Principles

16. Judicial Branch leadership should make budget requests based solely upon demonstrated need supported by appropriate business justification, including the use of workload assessment models and the application of appropriate performance measures.
17. Judicial Branch leadership should adopt performance standards with corresponding, relevant performance measures and manage their operations to achieve the desired outcomes.

# Managing Budget Principles

18. Judicial Branch budget requests should be considered by legislative bodies as submitted by the Judicial Branch.
19. Judicial Branch leadership should have the authority to allocate resources with a minimum of legislative and executive branch controls including budgets that have a minimal number of line items.
20. Judicial Branch leadership should administer funds in accordance with sound, accepted financial management practices.

# Adequate Funding Principles

21. Court should be funded so that cases can be resolved in accordance with recognized time standards by judicial officers and court staff functioning in accordance with adopted workload standards.
22. Responsible funding entities should ensure that courts have facilities that are safe, secure and accessible and which are designed, built and maintained according to adopted courthouse facilities guidelines.

# Adequate Funding Principles

23. The court system should be funded to provide technologies needed for the courts to operate efficiently and effectively and to provide the public services comparable to those provided by the other branches of government and private business.
24. Courts should be funded at a level that allows their core dispute resolution functions to be resolved by applying the appropriate dispositional alternative.



# Adequate Funding Principles

25. Court fees should not be set so high as to deny reasonable access to dispute resolution services provided by the courts. Courts should establish a method to waive or reduce fees when needed to allow access.