

Funding State Courts: Trends in 2002: Budget Woes and Resourceful Thinking

Knowledge & Information Services
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Budget Conditions

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That most courts are sharing in the pains caused by the current recession is hardly news. That circumstances are likely to worsen before they improve is also widely accepted. Nevertheless, if historic patterns hold, the courts will fare better than most executive branch agencies during the short term; as institutions, the courts are in no immediate danger. Less certain is how courts will position themselves during this period of austerity and how their actions, and developments in other areas, will affect the long-term quality of justice.

Budget Conditions

Findings from surveys conducted by the National Center for State Courts and completed by state court administrators in November 2001 and July 2002^[1] reveal that state courts have not experienced budgetary effects equally. Indeed, for FY 2002, the majority of the responding state courts reported increases in their state appropriations, which they assessed as adequate or better for their needs. Although the reports for FY 2003 were less favorable, with a plurality indicating budget restrictions (see Figure 1), more court administrators than not still rated their FY 2003 state appropriations as at least adequate (see Figure 2).

Figure 1

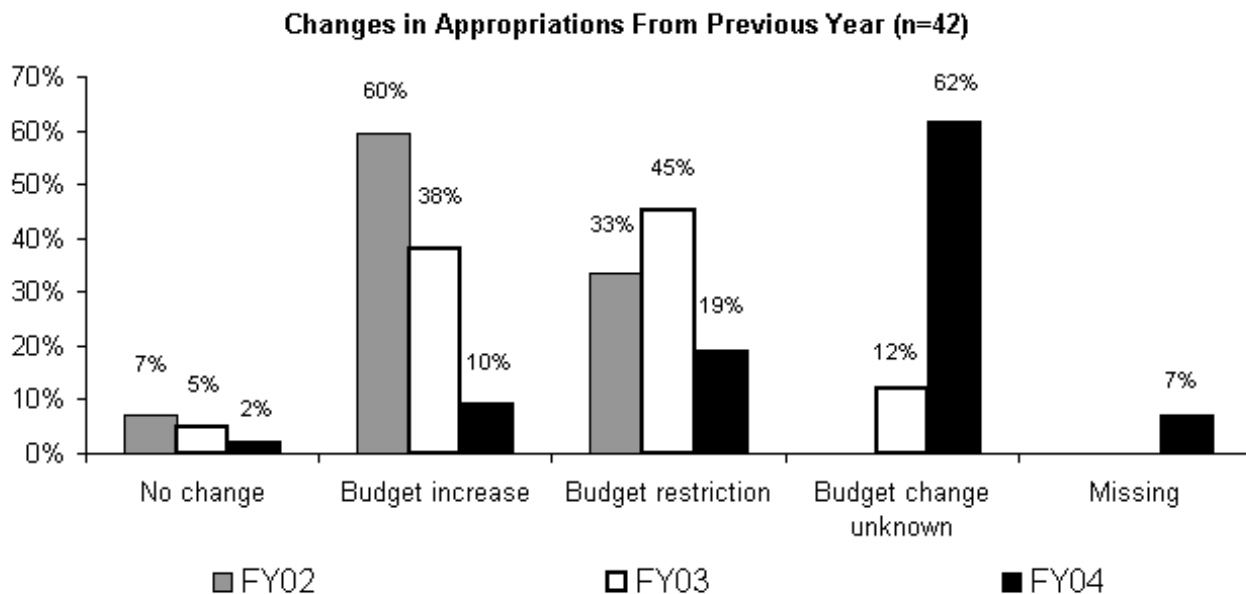
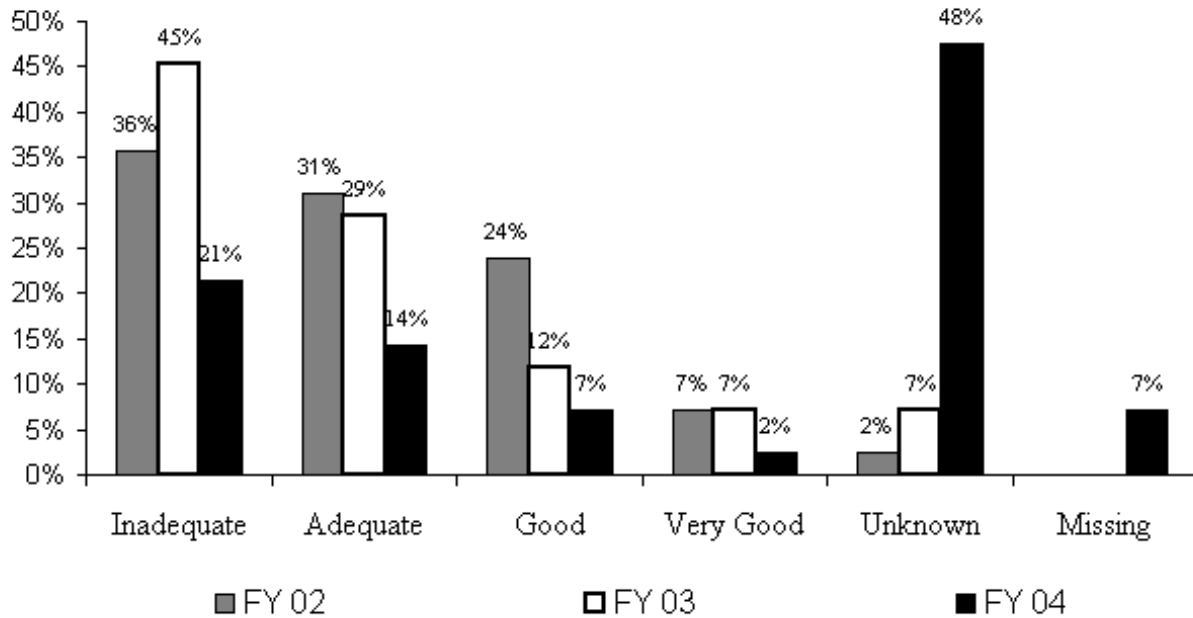


Figure 2
Adequacy of Judicial Branch Appropriations for Years Listed (n=42)



Many factors are at play here, including the relative strengths of local economies and associated lag times between business downturns and their effects on government revenues. In addition, varied levels of dependence upon state versus local revenues for funding the courts and greater control and prudence in some legislatures over state spending have had different impacts upon court finances and court responses.

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Court Reactions: The Woeful

In slowing economic conditions, governments tend to reduce expenses without reducing or eliminating services or positions. Too often, this leads to cuts that “eventually leave them less able to deliver services efficiently and effectively: cutting management analysis, employee training, IT budgets and the like.”^[2] The two National Center surveys confirmed that many courts are following this pattern. For FY 2003, 38 percent of the 42 jurisdictions responding to the July survey indicated they had reduced training, while another 14 percent indicated training cuts were contemplated in FY 2003. Thirty-eight percent also indicated they were delaying technology improvements in FY 2003, with another 17 percent indicating they contemplated such action. Sixty percent of the responding states had reduced general purchases and capital expenditures, and 26 percent had reduced maintenance services; more states were contemplating such actions. Perhaps even more dismaying was that a number of states were cutting or even eliminating specialty courts and programs; such cost reductions, which, notably, may not have been initiated by the judicial branch, jeopardize many of the promising diversionary and treatment efforts that are at the heart of problem-solving court initiatives.

Although many state courts are far from being in desperate circumstances and might feel that more painful measures are not yet necessary, the projected increases in the severity of government budget problems lead one to think that some courts are delaying the inevitable—and perhaps adding to future problems. The phrase “penny-wise and pound foolish” comes to mind. Given the

hiring delays and freezes that are commonplace in recessions (62 percent of the state courts had already taken this action in FY 2003), the training of existing staff becomes even more critical as the means to acquire new and improve existing knowledge and skill sets within an institution. Where technology, such as new PCs, makes operations more efficient, it allows courts to save more money over time. Cuts in needed capital and maintenance areas usually lead to much higher costs down the road. In cutback climates, governments also tend to reduce efforts in strategic planning, performance management, and other evaluations, but such activities are even more important in hard times because they inform the organization about which programs work, which do not, and which should receive priority for preservation or the budget ax.^[3]

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Organizations under stress or in crisis tend to focus inward. Consequently, they may fail to realize that there are consequences and perhaps even solutions outside their walls. Appropriating bodies, being removed from the realities of court and agency operations, often miss or discount the critical interaction of causes and effects that should influence *their* budgetary decisions. Drug courts, for example, have become a key component in intergovernmental efforts to treat drug dependence, improving societal efforts to get drug offenders into treatment programs and keeping them there, with periodic monitoring, long enough to make a difference. Every dollar spent on drug courts and related treatment programs yields manifold returns in reduced drug-related crime, criminal justice (law enforcement, prosecution, and corrections) costs, and theft, not to mention further savings related to health care. Major savings to the individual and society also come from significant drops in interpersonal conflicts, improvements in workplace productivity, and reductions in drug-related accidents.^[4] Despite such successes, the current economic downturn is threatening these socially effective, problem-solving collaborations in Virginia^[5] and other states. Discontinuation of such programs is likely to increase domestic and criminal cases in the long term and correctional expenses in the short term because those who might otherwise be diverted to alternative programs must now be incarcerated. Given the immediate impact on correctional budgets (over \$20,000 annually per offender), might state officials consider shifting some correctional funds to preserve effective treatment and community service programs (the most expensive of which cost about half as much per offender), including drug courts?^[6]

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Court Reactions: The Resourceful

Thankfully, not all trends in the financial environment are so negative. Some courts are taking very positive steps in response to or in anticipation of financial constraints. Fifty-seven percent of the July survey respondents indicated their courts were making greater use of electronic communications. Thirty-one percent were making further investments in automation, and 31 percent were providing cross-training to staff. One-third indicated they were increasing efforts to collect fines and fees, with more states contemplating such action. States are looking for alternative revenue sources, such as funding from government grants and nonprofit foundations, and attempting to increase revenues from existing sources, such as court costs. Although creating or increasing surcharges is a poor policy choice, thoughtfully considered increases in basic fees are fair methods for covering some operating expenses. One state that has reportedly been very successful in securing funding from grants has been Missouri; in the last five years, the Missouri Office of the State Courts Administrator (OSCA) has benefited from over \$28 million in grant funds.^[7]

Efforts of the Delaware court system show how courts can tackle resource issues more strategically. Concerned for the continued improvement of the Judicial Branch's business plans and practices in light of sometimes inadequate appropriations from the General Assembly, the Delaware

Supreme Court created the Court Resources Task Force in 2002.^[8] In addition to exploring existing and alternative revenue sources, the Task Force, whose members came largely from outside the court system, studied the effectiveness of budget and staffing structures within the court system and examined how the courts might develop partnerships with the bar, academic institutions, and other private-sector groups to address the courts' personnel and resource requirements. The Task Force's recommendations, which were in draft form at this writing, included:

- reassignment of certain financial and technological functions and associated staff from the trial courts to the state court administrator's office;
- appointment of a permanent pro bono advisory committee to succeed the Task Force in assisting the judiciary with administrative and business concerns;
- establishment of an Equal Justice Fund within the Delaware Community Foundation, an existing nonprofit organization, to seek and disburse private contributions to assist in addressing needs within the state judicial system;
- centralization of the process of tracking and reporting grants and development of a new relationship and understanding with the General Assembly so that budget and grant funding will coordinate more effectively and efficiently with court system priorities;
- consideration of possible increases in court fee structures, keeping in mind concerns over access to the courts;
- centralization of all court collection efforts under a modern Office of State Court Collections Enforcement;
- continuation of the Case Management Off-the-Shelf Software (COTS) initiative, redesigning court workflows where appropriate to create efficiencies in acquiring a single case management system; and
- collaboration with state education institutions to develop meaningful intern scholarship programs and to explore the use of faculty for special initiatives and of student volunteers to help with court public service efforts.

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The Task Force was careful to consider potential ethical issues, including courts' avoidance of actual or perceived conflicts of interest, as it formulated its recommendations for the Judicial Branch.

In conclusion, as government budgets become tighter, the operating conditions for courts are likely to become more difficult, but they need not become dire. Where courts have a choice about how funds are used and what, if necessary, must be cut, some choices are clearly better, if not less painful, than others. Tough budget conditions demand strategic thinking and provide perfect opportunities to justify needed changes that might have been more politically difficult when budgets were flush. Where budgetary cuts may be outside the court's control, the court may still have influence over programmatic spending, particularly if it is prepared, with other interested legal, business, social service, and criminal justice agencies, to defend successful programs and to offer constructive alternatives to appropriating bodies.

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[1] See *generally*, results presented at the 2002 Annual Meeting of the National Association for Court Management, "Court System Budgets: Keeping the Doors Open."

[2] Katherine Barrett and Richard Greene, "**Bad-News Budgeting**," *Governing* (November 2001): 80.

[3] *Id.*

[4] "**FAQ 11. Is Drug Addiction Treatment Worth Its Cost?**" from National Institute on Drug Abuse, [Principles of Drug Addiction Treatment: A Research-Based Guide](#) (Washington: NIDA, National Institutes of Health,), p. 21. See also Elaine Stuart, "**Rehab, Not Jail**," *State Government News* (September 2001): 26; Blaine Corren, "**Study Bolsters Drug Court Claims**," *Court News (California)* (May-June 2002): 1.

[5] John D. Tuerck, "**Drug Courts Threatened by Budget Cuts**," *Virginia Lawyers Weekly* (March 18, 2002): 1.

[6] Stuart, p. 28; Tuerck, p. 20.

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[8] Administrative Directive No. 136, Supreme Court of Delaware (January 9, 2002).

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