



Supreme Court of Wisconsin

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TO: Members of the Special Committee on Criminal Justice Funding and Strategies

FROM: Chief Justice Shirley Abrahamson
Wisconsin Supreme Court

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Director of State Courts

SUBJECT: Status of Court Financing Subcommittee's Recommendations

Thank you for the opportunity to speak with you at your first meeting. Your committee is faced with many of the same difficult issues the court system tackled through the work of the Supreme Court's Planning and Policy Advisory Committee (PPAC)'s Subcommittee on Court Financing. We thought it may be helpful as you proceed with your work to give you more detail about this Subcommittee and an update on the status of implementing the Subcommittee's recommendations.

In response to increasing concerns about the funding of the state court system and the growing frequency of calls for full state funding, in May 2002 PPAC created the Subcommittee on Court Financing. The charge of the subcommittee was to sort through issues associated with the funding and delivery of court services and identify a stable, effective and responsible financing mechanism. The subcommittee consisted of representatives of the circuit and appellate courts, counties and the public. Their final report was approved by PPAC in February 2004.

After reviewing Wisconsin's history of court funding and the experiences of other states, the subcommittee concluded that **the court system in Wisconsin should continue to remain a partnership between counties and the State, with the long-term goal of the State increasing its responsibility for funding court services.** Other recommendations included:

- Update the state indigency guidelines and fully fund the State Public Defender's Office.
- Allow the State Public Defender's Office to once again provide advocate counsel for indigents in Children in Need of Protection and Services (CHIPS) cases.
- Do not use increased court fees as a source of state funding.
- Work closely with the Judicial Branch in developing statutory requirements affecting the circuit courts.
- Encourage counties to go beyond core court services when funding the courts because innovation in court procedures and programs are best approached at the local level.

- Continue funding the ancillary services on which the court relies, including mental health and alcohol and other drug abuse programs.
- Request a statutory change to allow for auditing of county court financial information.

Since the issuance of the final report, some progress has been made in implementing some of the recommendations. 2009 Act 164 updated the criteria for determining indigency for purposes of representation by the State Public Defender, to take effect June 19, 2011. As discussed at your committee meeting, some innovative court programs have been created, including specialty courts and the TAD (Treatment Alternatives and Diversion) and AIM (Assess, Inform and Measure) programs. However, most of these programs have been started with grant funds and are in danger of being shut down once the grant monies are gone. Court surcharges have continued to proliferate to fund non-court programs. State funding for court interpreter reimbursement has increased as the demand for court interpreters has grown. However, state payments to counties under the two state programs that support the circuit courts, the court support services and guardian ad litem (GAL) payment programs, decreased this biennium due to the across-the-board one percent reduction to state appropriations.

Progress has also been made on obtaining better county court financial information. The Subcommittee recognized that for the State to responsibly take over or significantly increase funding for any county-funded court services, counties' accounting practices needed to be standardized to increase the reliability of expenditure and revenue data; without such information, core court services would be improperly funded, most likely under-funded. 2007 Act 20 (2007-2009 biennial budget) gave the Director of State Courts the statutory authority to institute a standardized program for recording, reporting, and auditing the revenues and expenditures of Wisconsin's circuit courts. The law change allowed the Director of State Courts to create a uniform chart of accounts that each county is required to use for the recording of all financial transactions relating to the operation of circuit courts.

The Director's Office worked with a group of clerks of circuit court, county finance officers and court administrative staff to develop the uniform chart of accounts. The workgroup faced a number of challenges in its development, particularly with the collection of court-related revenue. Revenues generated from court fees, fines, forfeitures and surcharges may be retained by the county (with some revenues retained by the court, some distributed to other departments and some deposited to the county's general fund), sent to the state, or split between the county and the state. While information is available from the State Treasurer on the revenue each court collects that is split between the state and the county, the State has never had an accounting of court fees that are wholly retained by the county.

The chart of accounts provides guidance to counties on how to complete the annual reporting requirements of circuit court revenues and expenditures under s. 758.19(5)(e), Wis. Stats. Beginning with calendar year 2008 reporting, each county must annually submit to the Director the county's circuit court revenue and cost information in a manner that comports with the uniform chart of accounts.

2007 Act 20 also authorized the Director to audit the counties' reported annual financial information to ensure compliance with the uniform chart of accounts, and provided a two-year project auditor position. A two-year extension of the project position in 2009 Act 28 (2009-2011 biennial budget) allowed the audit function to be implemented. Auditing of counties' financial reports began in fiscal

year (FY) 2009-10. The audit plan is based on an ambitious three-year cycle: one-third of the counties to be audited each fiscal year, with a new cycle beginning in year four. Early audit findings have shown the importance of this audit function by confirming that there are differing and inconsistent accounting practices among and within counties. In FY 2009-10, the auditor visited 19 counties and found a number of inconsistencies in reporting county financial and staffing data including:

- Counties are using a variety of methods for capturing GAL expenditures and recoupments that, in turn, impacts the financial assistance counties receive under the State's GAL payment program;
- One county materially overstated their GAL expenditures in calendar year 2008 because they erroneously recorded indigent defense counsel expenditures as GAL expenditures, while another county lost \$1,000 in GAL payment due to misreporting;
- All counties improperly reported at least some expenditures, such as incorrect coding of court costs, classifying non-court costs as court expenditures or, conversely, not reporting actual court expenditures.
- Some counties are reporting salaries and fringe benefits costs but do not report the corresponding staffing levels;
- Some counties' reporting of court revenue did not reconcile to the counties' general ledger;
- One county is having its clerk of circuit courts collect and recognize as a court revenue non-statutory fees; and
- Counties are reporting county personnel employed by non-court related departments as court staff, raising separation of power concerns.

As more counties are audited, the Director's Office continues to gain insights on circuit court operations. This will allow the uniform chart of accounts to be revised so it properly captures all the revenue and expenditures that encompass circuit court operations. Furthermore, a continuing audit process will allow counties to correctly report their financial information without being impacted by such factors as county staff turnover, implementation of new programs and/or law changes. The Director's Office and counties have realized other benefits as well, including providing counties with guidance on best practices, and helping to identify potential programmatic issues used for the development of sound policies and procedures for the circuit courts. As a result, several counties have asked to be moved up on the audit schedule.

With the project auditor position terminating at the end of the current biennium, it is possible that at least 30 counties will never be audited. The Supreme Court's 2011-2013 biennial budget request will include a proposal to convert the project auditor position to permanent to institutionalize the audit function. The Wisconsin Counties' Association supports this budget request. This will allow the Director's Office to provide assurances to the Supreme Court, the Governor and the Legislature that the financial information provided by the counties represents the true costs to counties of operating the circuit courts. Knowing the true costs is the first step in securing adequate funding to support the courts.