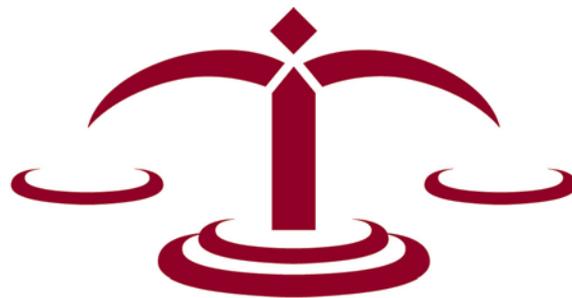


Report on the Funding Crisis in the Illinois Courts



*Submitted by the
ISBA Special Committee on Fair and Impartial Courts
May 2013*



ILLINOIS STATE

BAR ASSOCIATION

Special Committee on Fair and Impartial Courts

Hon. Patricia P. Golden (Ret.), West Dundee, Co-Chair
Hon. James M. Wexstten, 5th District Illinois Appellate Court, Mt Vernon, Co-Chair
Alisa B. Arnoff, Scalabrino & Arnoff LLP, Chicago
Michael G. Bergmann, Public Interest Law Initiative, Chicago
Carl R. Draper, Feldman Wasser Draper & Cox, Springfield
Hon. Val Gunnarsson, 15th Judicial Circuit, Mt. Carroll
Randall A. Hack, Locke Lord LLP, Chicago
John J. Holevas, WilliamsMcCarthy LLP, Rockford
Hon. Maureen A. Josh, Clerk of the Circuit Court of DeKalb County, Sycamore
Hon. Rita M. Novak, Circuit Court of Cook County, Chicago
Meghan N. O'Brien, James M. Ridge & Associates, Chicago
Tara H. Ori, Assistant State's Attorney, Lake County, Waukegan
Hon. Mary S. Schostok, 2nd District Illinois Appellate Court, Libertyville
Richard W. Zuckerman, Law Offices of Richard W. Zuckerman, Peoria

Reporter: Professor Andrew D. Leipold, University of Illinois College of Law, Champaign
aleipold@illinois.edu

Board of Governors Liaison: James F. McCluskey, Momkus McCluskey LLC, Lisle
AOIC Representative: Marcia M. Meis, Deputy Director, Administrative Office of the
Illinois Courts
David N. Anderson, Illinois State Bar Association, Springfield, Staff Liaison
Lynne Davis, Illinois State Bar Association, Springfield, Staff Liaison

Table of Contents

EXECUTIVE SUMMARY	1
INTRODUCTION	4
I. THE PROBLEM	6
A. Unpredictable Funding	6
B. Inadequate Funding	7
C. Disproportionate Cuts.....	8
II. THE IMPACT	10
A. The Effect of Funding Cuts	11
1. Civil Case Delay	11
2. Criminal Case Delay.....	13
3. Probation Services	15
4. Courthouse Conditions and Infrastructure.....	19
5. Courthouse Security	21
6. Size of Court Staff	21
7. Representation of the Indigent and Juveniles	22
B. There's a Leak In Your End of the Boat: Disparate Treatment in a Unified System.....	23
III. THE FUTURE	26
CONCLUSION.....	28
APPENDICES.....	29

EXECUTIVE SUMMARY

The Illinois State Bar Association Special Committee on Fair & Impartial Courts was created in 2012 by ISBA President John Thies. The Committee's charge was to: (a) identify and evaluate the effects of insufficient funding on the judiciary and the constituencies that it serves; and (b) articulate goals to reduce the harmful impact of inadequate funding and lay the foundation for strengthening the Illinois court system.

THE PROBLEM

The Illinois court system is facing a funding crisis. The ability of the courts to deliver fair, timely and professional service has been degraded over the last dozen years by three trends:

- Unpredictable budgets. There have been wide variations in funding that bear no relation to the demand for services.
- Cuts in real allocations. Adjusted for inflation, funding for Illinois courts has dropped **22%** since 2002, while costs have continued to rise.
- Disproportionate cuts. The allocation for the judicial branch has gone down steadily as a percentage of the overall State budget, so that it is now barely one-half of one percent. The court system has absorbed more than its fair share of the State's financial problems.

THE IMPACT

Funding cuts have affected all aspects of the judicial process. To identify the areas of particular concern, the Committee surveyed the Chief Judges of each judicial circuit in Illinois, as well as a sample of the practicing bar. These groups identified seven problem areas:

1. Civil Case Delay – Too few judges and insufficient court personnel to handle the case-load often mean that parties must wait months or years for trial dates and other critical proceedings. Delay is a critical issue in Domestic Relations cases in particular, resulting in significant family, property, financial and other problems for the litigants and families involved.

2. Criminal Case Delay – Delay in criminal cases hurts law enforcement and puts public safety at risk. Nevertheless, half the judges and lawyers surveyed see moderate or significant delay in processing criminal matters. Besides having a harmful effect on society, delay also places enormous amounts of stress on victims, witnesses, the accused, and their families.

3. Probation Services – This is the area that may be the most severely affected by reduced funding. The absence of trained probation officers impacts pretrial services, presentencing concerns, and post-conviction monitoring and treatment. The result is unnecessary expense (incarcerating those who could be on probation), inadequate support for those on probation, and an increased risk to public safety from inadequate monitoring and an increased risk of recidivism.



4. Courthouse Conditions – More than 80% of the Chief Judges say that the facilities in their circuit are moderately or significantly inadequate. Concerns range from failure to comply with the law (i.e., the Americans with Disabilities Act, municipal code violations) to space needs (work areas, holding cells, conference rooms) to an absence of technology.

5. Courthouse Security – Nearly 70% of the Chief Judges in Illinois believe there are security risks in their courthouses. These concerns range from an inability to keep prisoners separate from the Judges to inadequate security personnel and equipment.

6. Size of Court Staff – Both the Chief Judges and lawyers say that inadequate courthouse staffing is a real problem – court reporters, interpreters, IT and security personnel are all critical parts of the judicial system, yet are often stretched too thin or missing entirely from the process.

7. Representation of the Indigent and Juveniles – The lack of funding results in an inadequate number of qualified attorneys available to accept court appointments.

There is an additional problem of unequal funding among the Circuits. There is a clear disparity in how State funding affects the services provided by each Circuit, as wealthier counties fill the gap left by State funding when possible, while other counties and Circuits go without. This result is inconsistent with the concept of a unified court system, and with the goal of equal treatment for all Illinois citizens.

MOVING FORWARD

A plan for addressing the funding crisis must have the following components:

A. Education. Judges and lawyers need to participate in a concerted effort to educate their constituencies about the role courts play in society, providing concrete examples of why adequate funding of the court system is critical to the public welfare.

B. Monitoring. Judges and lawyers need to monitor the problem areas identified in the Report – and others, as they arise -- and sound the alarm when the courts' core functions are in danger. This will assist the stakeholders in addressing the most crucial needs first.

C. Working Smarter. The manner in which our courts function can always be improved. Processes can always be streamlined. Advances in technology must be embraced, implemented, and kept up to date.

D. Reverse the Funding Trends. Immediate, practical steps must be taken by the Legislature to stop the erosion of funding for the judicial branch. More predictable budgets, an increase in real dollar funding, and more equitable treatment of courts in the budget process are essential to prevent a deepening of the problems facing the justice system.



E. Full Funding of the Courts. The long term goal should be more than just alleviating the funding crisis. Restoring courts to their proper place as a co-equal branch of government will return to the citizens of Illinois far more than the amount invested.



INTRODUCTION

Over the last 12 years funding for the Illinois court system has dropped 22% in real dollars, while expenses continue to rise. Courts have economized, found shortcuts, and done without, but their ability to do more with less is reaching – and at times has exceeded -- its limits. Unless current funding and other trends are reversed, the relatively small short-term savings to the State budget that come from cutting the courts' allocation will be swamped by the harms imposed on the millions of people whose lives are affected by the courts' ability to do their job.

These financial problems have highlighted, among other things, that the unified court system is not functioning as it was intended. The aim of a unified court system is to promote judicial efficiency and ensure equal access to the services and protections provided by the courts throughout the State. What has happened instead is that rising costs and decreased funding have left courts in some counties in far worse financial shape than those in other counties. These differences have undermined the State's commitment to guarantee equal service and justice for all.

Put simply, an effective civil and criminal court system is critical to the safety and well-being of the people of this State. Protecting citizens from crime and other harmful behavior requires many things – wise lawmaking, effective law enforcement, and professional corrections – but at the critical core of all these efforts must be a court system that has the necessary resources to punish the guilty, vindicate the innocent, and ensure that the sentences fit the crime and the offender. In calendar year 2012 the Illinois circuit courts handled more than 84,000 felonies, more than a quarter of a million criminal misdemeanors, and more than 2 million traffic violations, including 48,000 drunk driving cases. The courts also disposed of 26,000 juvenile matters, leaving another 56,000 juvenile cases pending.¹ At the same time, the courts were responsible for over 80,000 adults and 14,000 juveniles who were on probation or under court supervision.² If courts do not have the resources to manage these matters, the prime function of government is in jeopardy.

Courts are also the cornerstone of a system that helps people resolve their disputes and order their lives. Divorces, adoptions, protective orders, personal injuries, property disputes, probate, freedom from a discriminatory and harassing workplace, landlord–tenant difficulties – these are critical events faced by thousands of Illinois residents each year, and are often among the most important periods in a person's life. But no matter how fair the laws are in resolving these matters, they are meaningless if courts are unable to adjudicate our rights and responsibilities promptly and efficiently. If courts lack the resources to deal with the 700,000 new civil cas-

¹ Preliminary data provided by the Administrative Office of the Illinois Courts as an anticipated component to the 2012 Annual Report of the Illinois Courts. The juvenile statistics include both delinquency and abuse and neglect proceedings.

² See Part II.A.3, below.



es that are filed each year in Illinois,³ they are unable to provide the peace of mind, finality, and protection that are essential to a well-ordered society.

The court system is also critical to the Illinois economy. An important ingredient in creating a climate that allows for business growth, job creation, and general prosperity is the knowledge that the laws will be enforced fairly and predictably, and that the courts are available to resolve cases promptly. When parties find that courts lack the technology to process cases effectively, that there are not enough trained workers to meet legitimate needs, and that straightforward disputes take far longer than necessary to resolve, a feeling of frustration rather than justice will dominate the experience.

Of course, not all the problems facing the courts are the byproducts of inadequate funding. New legal obligations are constantly being created and altered,⁴ and the technology explosion has required a dramatic rethinking of how cases should be managed. The court system must continue to take steps of its own to eliminate delays, reduce wasteful litigation, and prevent lawyers and parties from taking unfair advantage of the procedural rules.

The judiciary also should be required to shoulder its fair share of the economic problems that Illinois is facing – but only its fair share. The current budget allocation for the court system is roughly one-half of one percent (0.51%) of the general revenue funds in the Illinois budget, a percentage that has been going down for some time.⁵

In response to the funding trends experienced by the court system, the Illinois State Bar Association created a Special Committee on Fair and Impartial Courts, to identify the effects of these trends and propose solutions. The Committee has spent one year studying the issue, and this Report documents its findings. The next step requires action: educating legislators, businesses, and the public about the role of courts and how the funding crisis can affect them; looking for creative ways to continue to decrease expenses and increase revenue; stopping the funding trends that degrade the court system's ability to function; and, ultimately, restoring to the courts the resources that they – and the people and businesses of Illinois who depend on the justice system – so urgently need.⁶

³ Preliminary data provided by the Administrative Office of the Illinois Courts as an anticipated component to the 2012 Annual Report of the Illinois Courts.

⁴ Approximately 214 new laws became effective in Illinois in 2012. See <http://exm.nr/KSER30>. Another 150 took effect at the beginning of 2013. See <http://exm.nr/TfsUIq>.

⁵ See Part I.C, below.

⁶ Illinois is not alone in facing a crisis in court funding. See <http://bit.ly/14K7MTM> (California); <http://bit.ly/ZKrdmD> (Florida); <http://bit.ly/ZKpkq2> (New York); <http://bit.ly/17elqfw> (American Bar



I. THE PROBLEM

Financing the Illinois court system is a shared responsibility between the State and the counties. The State pays the salaries and benefits of the Supreme, Appellate, and Circuit Court judges, as well as the staff costs and office expenses for the Supreme and Appellate judges. The State also pays for most of the probation and court services costs. The counties provide office, courtroom space, and maintenance for the circuit courts, and support staff for the Circuit Court judges. As is appropriate in a unified court system, however, most of the funding responsibility rests with the State.⁷

State financing of the Illinois court system suffers from three flaws: (1) funding levels are neither consistent nor predictable; (2) in real dollar terms there has been a steady erosion of State support; and (3) the cuts imposed on the court system are disproportionate to the cuts imposed on other areas of government.

A. Unpredictable Funding

For the court system to operate efficiently, State support should be both consistent and predictable. As with many organizations, the biggest expense for the judiciary is personnel costs, which are largely fixed. But unlike most companies, courts cannot control the demand for their services, and cannot turn business away even when the customers are unable to pay. This factor makes it critical for courts to be able to plan their budgets to account for the uncertainties.

The funding pattern over the last dozen years demonstrates how difficult planning can be. The court system allocation from fiscal year 2002 through 2013,⁸ in unadjusted dollars (that is, not adjusted for inflation), is shown in Chart 1:

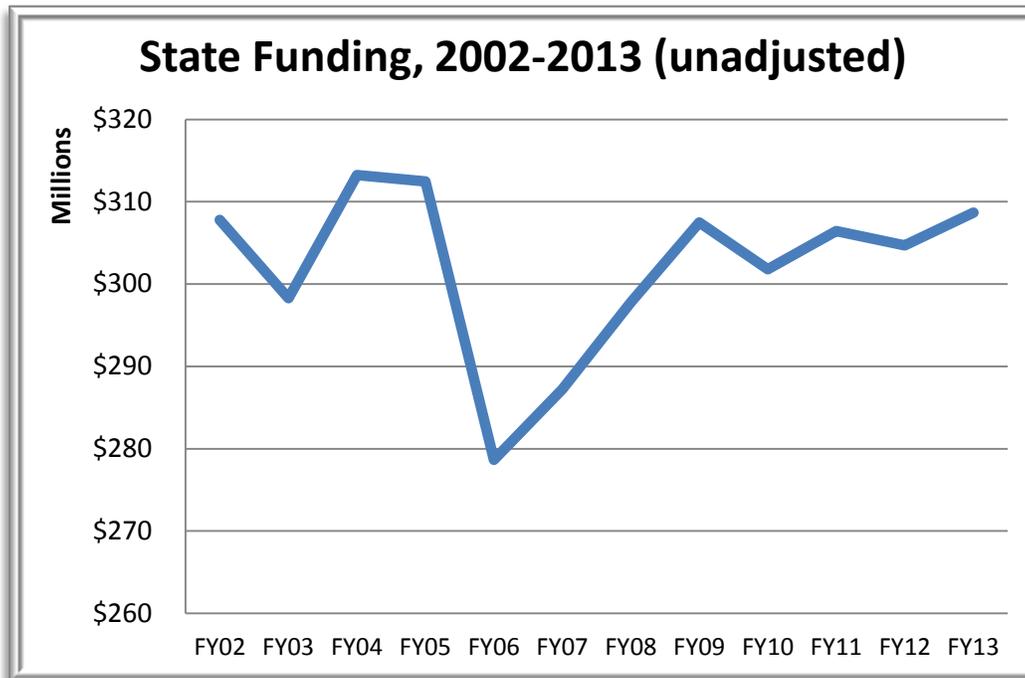
Association Fact Sheet addressing issues in various states). The American Bar Association has been studying the funding crisis facing the state courts as well. See <http://bit.ly/qkZnj1>.

⁷ More detail on the funding responsibilities of state and local governments is provided in the Court Funding section of the Administrative Summary of the Illinois Courts, which can be found at http://www.state.il.us/court/SupremeCourt/AnnualReport/2011/AdminSumm/2011_Administrative_Summary.pdf.

⁸ The dollar figures are taken from the Annual Report of the Illinois Courts, 2001 through 2012, which can be found at <http://www.state.il.us/court/SupremeCourt/AnnReport.asp>, and from Public Acts approving the appropriations. The precise dollar figures and their sources are set forth in Appendix A at page A-1. Unless otherwise indicated, all years indicated refer to fiscal years, July 1 through June 30.



Chart 1



This chart shows a 3% drop followed by a 5% rise, then a year of no change followed by an 11% drop in 2006. The three years after that (2007-2009) showed a 10% rise, followed by a drop, a rise, another drop, and another rise. During this time period the variation between the highest and lowest years was roughly \$34.6 million.⁹ At the end of the 12-year period, the court allocation was almost exactly the same in 2013 as it was in 2002,¹⁰ although the variations during this time period were large.¹¹

B. Inadequate Funding

The funding problem is actually much worse than Chart 1 suggests. In real dollar terms, financial support for the court system has decreased substantially. Controlling for inflation, the courts' allocations since 2002 are shown in Chart 2:¹²

⁹ In 2004 the judicial allocation was \$313,263,175, while two years later, in 2006, the allocation was \$278,663,200, a difference of \$34,599,975. See Appendix A at page A-1.

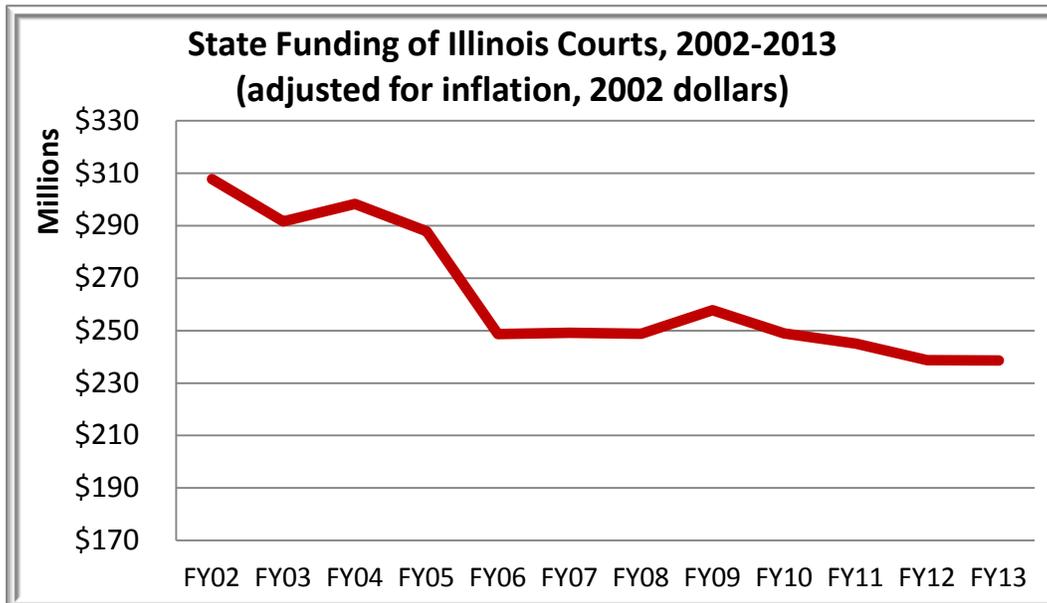
¹⁰ In FY 2002 the court allocation was \$307,788,700. In FY 2013 the allocation was \$308,687,000, which is less than 1/3 of 1% higher than it was 12 years earlier. *Id.*

¹¹ The standard deviation for the twelve year period was almost \$10 million (\$9,858,704).

¹² See Appendix A for the calculations of the inflation-adjusted budget amounts, at page A-2.



Chart 2



The chart shows a decline of 22% from 2002 to 2013. In contrast, the costs incurred in administering the court system have, predictably, gone up over the same period, compounding the resource problem.

Total State appropriations (not just for the court system) showed a similar drop in the earlier part of the last decade, falling by 24% from 2002 to 2004 after controlling for inflation.¹³ But allocations for the State as a whole began to rise from this low point in real terms after 2004, and have trended upward since then. In 2013, the general allocation in real dollar terms is down only 10% from 2002 levels.¹⁴ Stated differently, court budgets have suffered more than the State budget as a whole. This raises a third issue: unequal distribution of the budgetary pain.

C. Disproportionate Cuts

Given the State's financial difficulties, many governmental entities have suffered funding problems, and courts have rightly been expected to do their share of the belt-tightening. But budget cuts have not been evenly distributed – the judicial system has absorbed more than its share of the reductions.

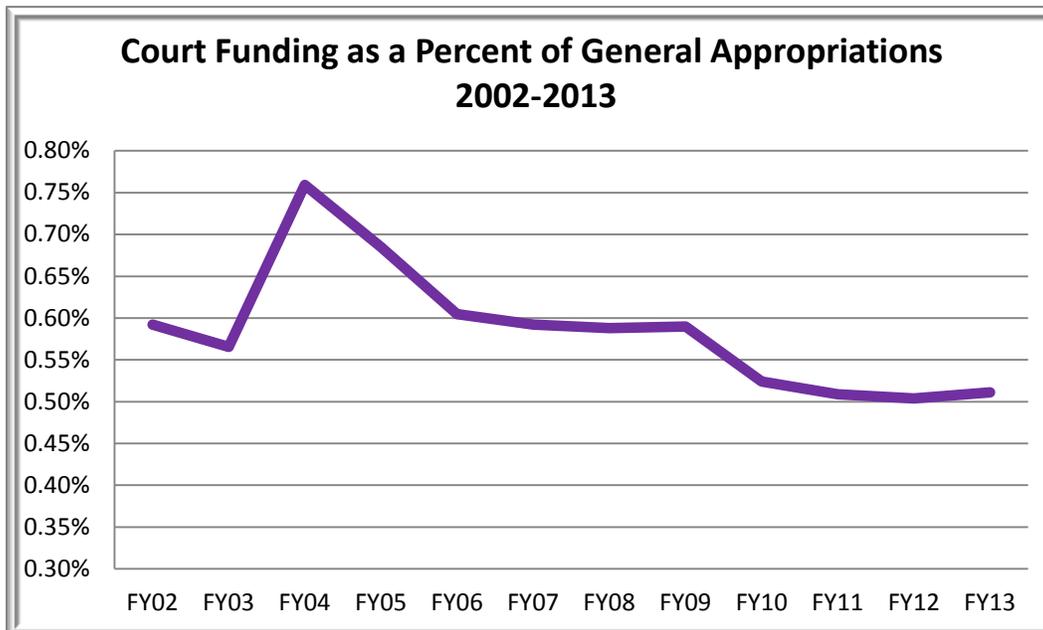
¹³ In fiscal year 2002, State appropriations were \$51,993,396,100, and in 2004, the inflation adjusted amount was \$39,300,537,821 (2002 dollars). The nominal dollar amounts of the total State appropriations are from the Administrative Summaries of the Annual Reports of the Illinois Courts, www.state.il.us/court/SupremeCourt/AnnReport.asp. The conversion into 2002 dollars is set forth in Appendix A at page A-3.

¹⁴ The precise inflation-adjusted numbers for the State budget is set forth in Appendix A at A-3.



If budget cuts were evenly distributed, the court’s percentage of the general revenues would stay the same – a 5% cut in general revenues would lead to a 5% cut in court revenues, but the court’s *percentage* of the overall budget would be unaffected.¹⁵ But this has not been the practice. Measured as a percentage of total allocations, court funding is significantly lower than it was 12 years ago. In 2002, court funding represented 0.59% of the general allocations. Two years later it reached a high of 0.76% of the budget, and since then has dropped steadily, as shown below:

Chart 3



In 2013, the courts’ percentage of general revenues was 0.51%, a drop of 16% from 2002.¹⁶ Stated differently, whether the overall state budget has increased or decreased over the last dozen years, the court system either has not enjoyed proportionate increases and has been required to absorb a disproportionate amount of the cuts.

A rational funding scheme would move in the other direction. As the foundation on which a safe and civilized society is built, and as a co-equal branch of government, courts should be

¹⁵ For example, if general revenues were \$1,000 in year 1, and the courts’ allocation from the budget were \$10, the courts’ percentage of the revenues would be 1%. In year 2, if the state budget were cut to \$950 and the judicial budget were cut to \$9.50, courts would have less money than the year before, but would still be funded by 1% of the budget. The courts would thus be harmed by the decrease, but not disproportionately so. Only if the courts’ percentage of the funding dropped below 1% -- whether the state budget increased or decreased -- could courts fairly claim that they were being disproportionately affected.

¹⁶ The percentage calculations are set forth in Appendix A at page A-4.



given a *priority* when it comes to allocating State dollars. But at a minimum they should not be asked to shoulder more than its fair share of the State's budgetary problems.

II. THE IMPACT

Court personnel have worked hard over the last dozen years to provide professional service with fewer resources. Participants in the system have looked for, and often have achieved, ways to do their job with less cost and delay, without sacrificing the core values of fairness, equal access, and evenhanded justice. The Administrative Office of the Illinois Courts reports that courts have, for example:

- delayed or not filled long-term, non-judicial vacancies;
- required that graded positions be hired at the minimum salary;
- imposed a moratorium on merit and performance pay increases;
- encouraged meetings via videoconferencing to reduce travel expenses; and
- delayed technology purchases and upgrades.

These efforts continue, because there is always more that can be done to eliminate inefficiencies. Still, it is important to remember that some parts of the system consume resources by design, and that what may look like a cumbersome or wasteful procedure is protective of something vital. Jury trials are neither efficient nor economical, but the Constitution requires them because they are at the heart of a justice system that is answerable to its citizens. Common sense dictates that frivolous lawsuits be purged from the system as soon as possible, but our commitment to letting parties state their claims and have a fair chance to investigate potential wrongs means that the system must tolerate proceedings that might ultimately be dismissed as meritless.

Nonetheless, the court system, like every other part of government, can work smarter, and can economize by constantly re-examining its processes. But there is only so much blood that can be squeezed from this stone, and continued funding cuts will inevitably degrade the ability of courts to perform their core functions. As discussed below, that point is coming for the system as a whole very soon; in some areas, it has already arrived.



A. The Effect of Funding Cuts

To understand the impact of the reduced funding, the Committee surveyed the Chief Judges in every Illinois Judicial Circuit, receiving a near-unanimous response.¹⁷ The Committee also sought the views of practicing lawyers by surveying the Assembly members of the Illinois State Bar Association, as well as members of several section law councils.¹⁸ These groups identified seven problem areas.

1. Civil Case Delay

Parties who need or decide to resolve their disputes through litigation depend on the courts to help them reach a prompt, fair resolution. No legitimate interest is served by dragging out a case – individuals and businesses cannot make plans, time and money are often needlessly spent while the case remains open, and protracted litigation takes a psychological toll on all the participants.

More than one third of the Illinois Chief Judges (36%) responded that there is “moderate” delay in civil cases in their Circuit. Sometimes the delay is more pronounced in the smaller counties.¹⁹ In other instances, the delay is specific to larger cases rather than smaller ones. As one Chief Judge said:

In most counties, the delay is manageable through the resources available to the Court. In complex litigation (class action, asbestos or related cases) the delay is very significant due to both the complexity of the case and the perceived length and burden of a jury trial.²⁰

Practicing lawyers find the delay in civil cases an even greater problem than the judges. Of those survey recipients who expressed a view, 85% identified delay in civil case processing as a problem, with more than 60% reporting “moderate” or “significant” delay, as shown in Table 1:

¹⁷ Survey responses were received from the Chief Judges of 22 of the 23 judicial circuits (21 of the numbered circuits plus Cook County). The survey was conducted in 2012, before the creation of a 24th circuit court (the new 23rd Circuit).

¹⁸ The Committee received responses from almost half of the Assembly members (91 of 199). Responses were also received from members of the section councils on Criminal Justice, Civil Practice & Procedure, Family Law, and Child Law. The figures and percentages set forth in this Report only account for those lawyer responses where the person expressed an opinion; answers of “don’t know” were excluded. Copies of all surveys, with the tabulated responses and comments, are in Appendices B and C.

¹⁹ As one Chief Judge stated: “In some of the smaller counties, insufficient local revenues have resulted in budget reductions and staff reductions in the offices of the circuit clerks, and difficulty in processing case-loads and complying with statutory mandates.”

²⁰ Unless otherwise indicated, all of the comments and quotes attributed to Chief Judges are reproduced in Appendix B.



Table 1²¹

Civil Case Processing	No Delay	Slight Delay	Moderate Delay	Significant Delay
Chief Judges	36%	27%	36%	0%
Lawyers	15%	23%	35%	27%

It is not surprising that lawyers see delay as a larger problem than the judiciary. Lawyers work directly with the clients who are most directly affected, and are highly frustrated, by the inability to have a meritorious claim promptly vindicated and a false claim quickly rejected. Lawyers also see the pernicious problem of delay that remains hidden: citizens who have been genuinely wronged or who are in need of some court action decide not to bring a case at all, because the delays and resulting costs of having a claim heard are prohibitive or otherwise discouraging. Citizens with legitimate grievances may simply give up on a system that cannot provide a timely solution.

The link between inadequate funding and court delay is easy to trace. Insufficient court staff,²² outdated or absent technology, and an inadequate courthouse infrastructure²³ mean cases take longer to process, and guarantee that inefficiency will follow.

These problems have real world consequences. One lawyer commented:

The worst delay occurs in the Domestic Relations courtrooms. Most trials are done in installments and there can be delays up to 4-5 months between hearing dates. There are not enough Judges to handle the case load. Due to economic pressures, many litigants are pro se which requires a lot more judicial time, particularly if both sides are pro se.

Another lawyer agreed that family law cases were particularly hard hit: “[p]aternity and child support courts do not have enough judges and court dates are slowed significantly.” Still another lawyer noted this impact:

In Madison County, we are currently waiting in excess of 18 months and more for decisions in divorce, custody, adoption and post judgment cases. Homes have gone into foreclosure and vehicles have been repossessed while we wait for decisions.²⁴

²¹ See Appendices B and C.

²² See the discussion of court staff in Section II.A.6, below.

²³ See the discussion of court infrastructure in Section II.A.4, below.



Delay can further result in the failure to meet financial obligations, inadequate funds for child support, postponement of remarriage, erratic home life for children, and so on.

The problems are not limited to family court. One lawyer expressed frustration that a simple negligence case could take three to four *years* to litigate.²⁵

Not all of the blame for delay can be traced to funding. Lawyers also expressed frustration that judges took too long to make decisions and were too willing to grant continuances.²⁶ Judges undoubtedly are frustrated as well with lawyers who use delay as a strategic tactic. Reducing these problems is an obvious and necessary part of any solution to this problem.

But the responses leave no doubt that inadequate funding contributes significantly and directly to the delays in giving people their day in court.

2. Criminal Case Delay

Delay in civil cases can create serious problems; delay in processing criminal cases can be even more harmful. A guilty defendant might remain free and unpunished for long periods while awaiting trial, which tragic experience has shown can jeopardize public safety. An innocent defendant unable to post bail might spend an inordinate amount of time jailed, disrupting his personal and family life. Society has a compelling interest in prompt justice, just as the accused has a constitutional right to a speedy trial.²⁷

As a result, criminal cases are given priority in the court system, but the problem of delay remains. Nearly half of the Chief Judges surveyed (46%) say that there is a “moderate” delay in processing criminal cases in their circuit, and another Chief Judge sees “significant” delay. These findings are roughly comparable to the lawyers’ responses. Of those with knowledge of

²⁴ Other lawyers commented: “Getting trial dates is worse than pulling teeth.” Paternity and child support courts do not have enough judges and court dates are slowed significantly.”

²⁵ The full quote by the lawyer was: “Cases move at a glacial pace in Cook County Law Division. There is no reason why a simple negligence case involving a plaintiff and one or two defendants, at most, should take three to four years to litigate.”

²⁶ One lawyer said: “The courts are backlogged and the judges are more than willing to grant continuances and give long briefing schedules” Another lawyer added: “In my local circuit family court, it is sometimes taking over a year to get a decision that had been taken under advisement.” Still another said: “Delay compared to what? This is asking for a subjective opinion without any objective criteria to compare it to. I could tell you that when you are ready for trial in the 17th Judicial Circuit you are lucky to get a firm date within a year.”

²⁷ The Illinois Constitution guarantees to the accused “a speedy public trial.” Ill. Const. Art. I sec. 8. Similarly, the Sixth Amendment to the U.S. Constitution provides: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial,” a provision that applies to the states through the due process clause of the 14th Amendment.



the criminal cases in their courts, 43% say that there is “moderate” or “significant” delay, while 57% say there is “slight” or “no” delay.²⁸

Much of the delay is attributable to lack of resources, and not just judicial resources. Public Defender offices and State’s Attorney offices also receive State money, and as one lawyer put it, “S.A.s [State Attorneys] and P.D.s [Public Defenders] are severely underfunded; investigation for p.d. is non-existent.” Criminal cases can only move as fast as the parties’ resources will allow, and thus, better funding for the judiciary will only partially relieve the delays. Stated differently, better funding of “the courts” is a necessary but not sufficient solution to the problem of delay.

Not all delays are caused by funding shortfalls, of course. The criminal process is complex, leaving room for parties to use the passage of time strategically,²⁹ and courts are constantly searching for ways to prevent such slowdowns. But it is also important to recognize that some of the delay in criminal cases is the product of constitutional and statutory requirements. Defendants are entitled to legal representation, and most defendants require appointed counsel; the lack of adequate funding for defense lawyers, however, can slow the process considerably. Arrested defendants must either be admitted to bail, or incarcerated in local jails, which may struggle to find the necessary space.³⁰ A significant number of defendants are or may be mentally ill, but the evaluation and potential commitment (and treatment, if available) of the accused can severely tax a county’s facilities and extend the process.³¹ And of course, jury trials themselves are a significant logistical and financial undertaking, albeit one we gladly embrace.

The pressure of too many defendants and too few resources has subtle but important effects on communities. To keep cases moving prosecutors offer plea bargains, and the greater the resource pressure, the greater the pressure to offer generous deals to encourage a guilty plea. This can lead to the under-punishment of blameworthy (sometimes dangerous) defendants, as well as pressure on innocent defendants to plead guilty to greatly reduced charges rather than run the risk of trial. Delays in resolving cases leave victims, witnesses, and even whole communities

²⁸ There were fewer lawyers responding to the survey who were knowledgeable about the criminal system, and thus fewer comments on the scope of the delay problem. See Appendix C.

²⁹ Lawyers complained, for example, that “According to criminal attorneys with whom I’ve had discussions, the reason for the delay is that the States Attorney is over-charging and refusing to negotiate the charges,” and that delay is “[u]sually attributable to opposing counsel, motion practice.” See Appendix C.

³⁰ Those who are released on bail may suffer greater delays than those in custody. As one Chief Judge noted: “Persons in custody are generally moved through the judicial system with minimal delay. Persons not in custody may see significant delays based on lack of public defender and other resources”

³¹ One Chicago woman with perceived mental health issues, for example, has been arrested nearly 400 times. See <http://bit.ly/XX5BJq>.



with no sense of closure, and leave those who are wrongly accused with a diminished sense of vindication. In the criminal system more so than in other parts of the court system, justice delayed can truly be justice denied.

3. Probation Services

Perhaps no area of the judicial system has been hit harder by budget cuts, or is under greater threat, than the probation system. Over 40% of the Chief Judges believe that the availability of probation services in their circuit is moderately or extremely inadequate, as do 35% of the lawyers surveyed. Among all the problems associated with reduced funding, restoration of probation services was listed as the top priority by the highest number of Chief Judges.³²

The work of probation services is often invisible, even to lawyers, but the judicial system cannot function without them. Probation services responsibilities include:³³

† Pretrial

- Probation officers are responsible for preparing investigative reports to determine an arrestee's eligibility for bail; in 2011, they prepared over 34,000 of these reports.
- Probation officers are responsible for monitoring over 4,300 people who have been released on bail pending trial.
- Probation officers undertook more than 22,000 juvenile investigations, including intake reports and the juvenile's social history.

† Presentencing

- Probation officers investigated and prepared almost 10,000 presentence reports, to assist judges in setting an appropriate punishment following a conviction.

† Post Conviction Monitoring and Treatment

- Statewide, probation services has an active caseload of roughly 100,000 individuals -- over 83,000 adults and more than 14,000 juveniles.³⁴

³² See Appendix B.

³³ The statistics set forth in this subsection are taken from the Report of Adult And Juvenile Probation and Supervised Pretrial Release, which is set forth in the 2011 Annual Report of the Illinois Courts, Statistical Summary, http://www.state.il.us/court/SupremeCourt/AnnualReport/2011/StatsSumm/2011_CA-Jprob.pdf, unless otherwise indicated. The caseload figures are based on calendar year, rather than fiscal year, reporting.



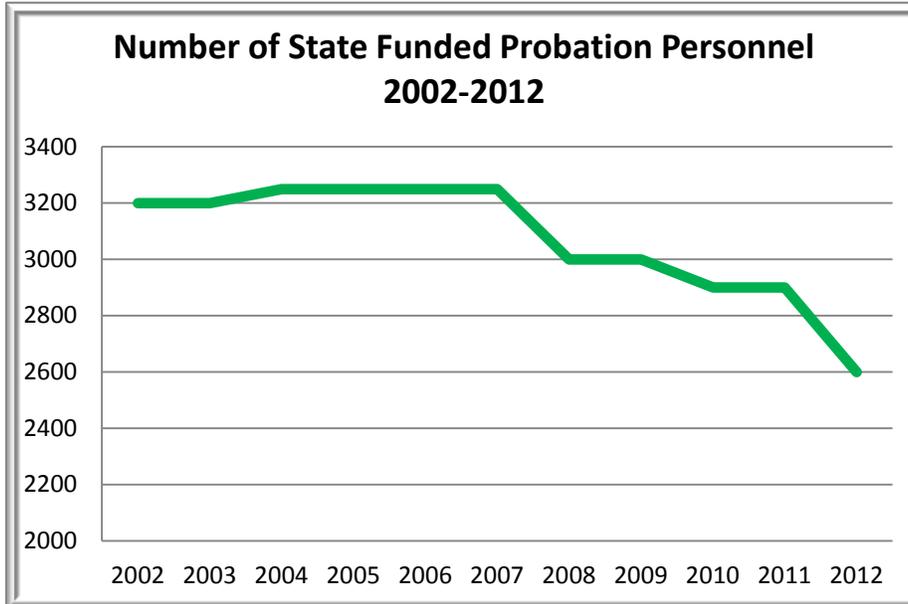
- This caseload includes monitoring more than 49,000 adults who were convicted of felonies and were not incarcerated.
- In eight circuits, probation officers maintained an “Intensive Probation Supervision Program,” which is a “highly structured, surveillance oriented, prison diversion program for non-violent felony offenders.” At the end of 2011 there were more than 1,000 active cases in this program.
- Probation officers were responsible for almost 19,000 special programs for adults on probation or supervised release, including more than 14,000 probationers who were ordered to undergo drug and alcohol treatment, another 3,500 who were required to obtain mental health treatment, and more than 600 required to obtain sex offender treatment. In addition, four counties have specialized DUI caseloads, with over 2,300 active cases.
- Probation officers also were responsible for another 13,000 special programs ordered for juveniles, more than 2,000 of which were for mental health treatment, and another 1,600 for drug and alcohol treatment.

In short, nothing in the criminal and juvenile processes – from intake, to bail, to sentencing, to monitoring, to treatment -- can function properly without probation services.

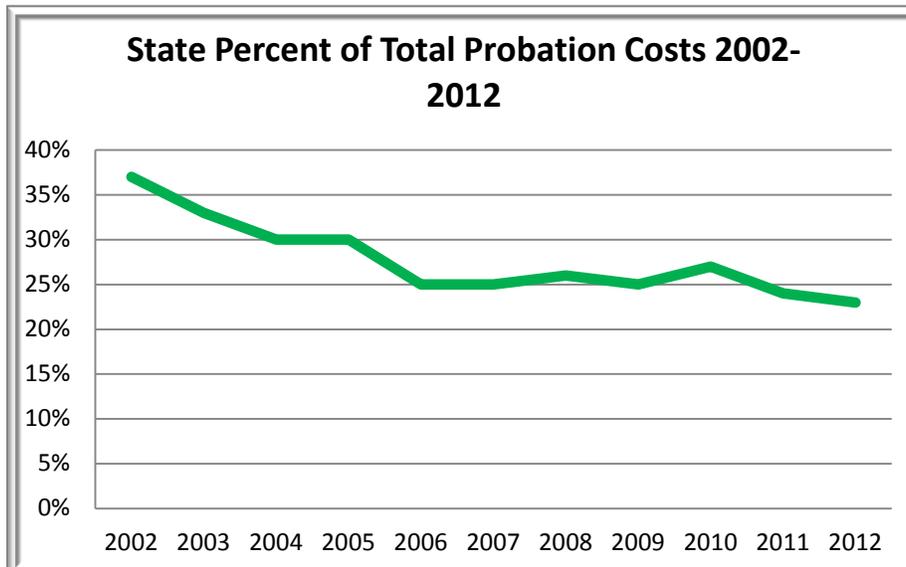
The central role of probation services in the criminal system suggests that this should be one of the last areas to feel the budget squeeze. But in fact, the number of State-funded probation personnel dropped 19% from fiscal year 2002 through 2012, from 3,200 probation workers to 2,600, as shown in Chart 4:

³⁴ As of December 31, 2011, the total caseload was 97,104, which was down slightly from the levels of the prior ten years. From 2001 through 2010, the caseload ranged from a low of 103,361 to a high of 113,403.



Chart 4

The reduction in personnel is part of the larger trend of reduced State support for the Division of Probation Services. In 2001, the State funded 37% of the total probation costs; by 2011, it funded only 23% of the costs, as shown in Chart 5:

Chart 5

These reductions have real-world costs. As one Chief Judge described the situation in his Circuit:

Over the past 10 years the Probation department in Peoria has been reduced by approximately 33% as funding from the State has decreased by nearly 50%. As a result we have fewer officers to complete the same amount of work. This causes us to prioritize what, who, and how we will supervise based on funding. Critical areas that we are no longer able to support:

- Juvenile Drug Court
- Community involvement - home visits, public service checks, etc. - We are able to complete some but minimal compared to what we would like to do.
- Utilizing technology to aid supervision - electronic monitoring offers significant options to monitoring high-risk offenders; however, the budget constraints make it difficult to utilize.
- Total lack of pre-trial court services to either:
 - Assist the judge in setting/reviewing bail and bail conditions
 - Provide services to a defendant while on bail and as a condition of bail.³⁵

The consequences in situations like these are easy to state. Fewer probation officers means reduced monitoring of offenders who are on probation or supervised release, which increases the chance of recidivism and other violations of release conditions. As one lawyer summarized it: “A nightmarish lack of probation services [is] putting public safety at risk.”³⁶ Fewer officers also means reduced monitoring of those on pretrial release. This increases the chances of avoidable bail violations and re-incarceration. And fewer officers means less complete presentence reports, which increases the chances of prison sentences being too harsh or too lenient.³⁷

Cuts in probation services also cost more money than they save. Many non-violent offenders are eligible for a sentence of probation rather than incarceration, and when this option is appropriate, the cost savings to taxpayers are substantial, as shown in Table 2:

³⁵ Email from Chief Judge Michael E. Brandt, 10th Judicial Circuit to Chief Judge Val Gunnarsson, 15th Judicial Circuit, March 27, 2013. Minor stylistic changes were made to the text of the email.

³⁶ See Appendix C.

³⁷ One lawyer put it simply: “Probation works very hard with little resources. In Southern Illinois we have very few service providers to help families.” *Id.*



Table 2

Offender	High Risk Probation Supervision	Incarceration	Annual Savings from Probation / Offender
Adult	\$3,375 / year	\$20,110 / year ³⁸	\$16,735
Juvenile	\$5,602 / year	\$90,720 / year ³⁹	\$85,118

By law, before a judge imposes a criminal sentence, she or he must determine the financial impact of incarceration when compared to the alternatives.⁴⁰ Ironically, reduced funding for probation services makes it harder for courts to save money through this lower-cost alternative.

In short, cutting probation services may not save any money at all, even in the short term. This trend makes little economic, societal, or common sense.

4. Courthouse Conditions and Infrastructure

An astonishing 77% of Chief Judges find their courthouse conditions “moderately” (59%) or “extremely” (18%) inadequate. The lawyers surveyed -- who naturally spend less time in the buildings than judges -- were less bothered by the state of the courthouses. Slightly under 50% find their courthouse “moderately” (29%) or “extremely” (20%) inadequate:

Table 3

Courthouse Conditions	Adequate	Slightly Inadequate	Moderately Inadequate	Extremely Inadequate
Chief Judges	18%	5%	59%	18%
Lawyers	32%	20%	29%	20%

³⁸ 2011 Illinois Department of Corrections, Financial Impact Statement, at <http://www2.illinois.gov/idoc/reportsandstatistics/Documents/Financial%20Impact%20Statement%202011.pdf>.

³⁹ The dollar amounts for probation supervision and juvenile incarceration were provided by the Administrative Office of the Illinois Courts.

⁴⁰ 730 ILCS 5/5-4-1 provides:

In sentencing an individual, the court shall consider, among other factors, the financial impact of incarceration based on the financial impact statement filed with the Clerk of the Circuit Court by the Department of Corrections.



These are not complaints about the color of the carpeting. Although there are some modern facilities in the state, there are also courthouses that:⁴¹

- are not compliant or are “barely” compliant with the Americans with Disabilities Act creating a risk that citizens with mobility issues are unable to access the courts;⁴²
- have inadequate courtroom space and work space for staff;⁴³
- lack of conference rooms for attorneys and clients to confer privately;⁴⁴
- are incapable of conducting a large trial;
- require the air conditioning units to be turned off during hearings and trials so witnesses can be heard;⁴⁵
- cannot accommodate basic computer technology;⁴⁶
- do not have cells to hold criminal defendants away from court personnel and the general public; and
- need major repair or refurbishing (one lawyer: “My courthouse has many code violations, and has mold visibly growing on the ceilings”).⁴⁷

⁴¹ Unless otherwise indicated, the responses referred to in this section are from the Chief Judges’ survey responses. See Appendix B. Lawyer responses are set forth in Appendix C.

⁴² For an example of the accessibility issues Illinois counties are facing, see <http://1.usa.gov/11wbUIJ> (Settlement Agreement between the United States and St. Clair County, IL, under the Americans with Disabilities Act).

⁴³ “[U]sing a multi-purpose room for a courtroom is not good.” See Appendix C.

⁴⁴ One lawyer said that the local court house had “no appropriate places to meet, lack of physical resources.” Another added: “There are not enough conference rooms and there is not enough space to meet with clients outside the court rooms without having anyone who walks by hear what is said.” A third said: “No place for lawyers to speak to clients if jury trial. No room for children and parents.” *Id.*

⁴⁵ See Appendix B. A lawyer added: “The heating and air conditioning does not work properly at all. No matter what the temperature outside or what season, there are some rooms that are almost as warm as a sauna and other rooms that are ridiculously cold all on the same day.” See Appendix C.

⁴⁶ As one lawyer put it: “The Daley Center is a relic from the 1960’s. Compared to federal courts that are wired for today’s technology, the Daley Center courtrooms are a joke.” Another Cook County practitioner agreed: “The courtrooms in the Daley Center are not equipped with technology for the 21st Century. The same is true of practically every courtroom throughout Cook County.” *Id.*



Given this, it is not surprising that nearly two thirds of the Chief Judges say that additional funding for courthouse infrastructure is a moderate or critical need in their circuit.⁴⁸

Judges and staff neither want nor need luxurious accommodations. But they do need adequate, professional facilities that will allow them to do their work properly. Just as importantly, courthouses are public buildings, a place where all citizens can come to resolve their differences and seek assistance. The physical setting should reflect the serious and important role that courts play in community life.

5. Courthouse Security

Courthouses cannot be a place of justice if they are not first a place of safety. Yet more than three-fifths of the Chief Judges (65%) believe that courthouse security is “moderately” or “extremely” inadequate. Once again, the lawyers who are at the courthouse periodically see less of a problem: 60% say that security is adequate.

Chief Judges and attorneys who expressed concern about security pointed to courthouses that lack a secure area for judges and staff. As one lawyer neatly put it: “prisoners share the same hallway as the judges. The hallway is about 4 feet wide.”⁴⁹ Often there are no secure parking area for judges and staff, no security cameras, panic buttons, or even uniformed deputies in the courtrooms. This presents a risk not only to court personnel, but also the parties, witnesses, and members of the public. Court cases generate high emotions, and as one lawyer put it: “There are too few court security officers to have one in each room. On some floors or during some uglier than normal cases, that is an issue.” Safety concerns are heightened when courthouses ban people from having cell phones with them in the courthouses – this affects victims of domestic violence and other victims of violent crime.⁵⁰ Without adequate security personnel and equipment, these issues will persist.

6. Size of Court Staff

No matter how good the judges, the court system simply cannot function without adequate professional staff. The clerks, bailiffs, court reporters, interpreters, secretaries, IT professionals,

⁴⁷ Another lawyer commented: “the 4th Municipal District . . . Courthouse is rusting from the inside out.” Another said simply: “Rock Island County is in dire need of a new court[h]ouse.” Another: “some courthouses such as Maywood are in terrible condition.” See Appendix C

⁴⁸ Forty one percent of the Chief Judges identified more funds for infrastructure as a moderately critical need, and 23% say it is an extremely critical need. See Appendix B.

⁴⁹ See Appendix C.

⁵⁰ The Circuit Court of Cook County, recognizing this fear, has exempted certain victims of domestic violence from the ban imposed at one of its courthouses. See <http://cbsloc.al/XMJeWY>. The 18th Judicial Circuit does not have such an exception. See <http://www.dupageco.org/courts/2381/>.



and law clerks not only perform critical functions, they also are the points of contact between the public and the judiciary. Citizens' perceptions of the judicial system, and the work done there, are fashioned in large part by their perception of the court staff.

Some of this understaffing is a direct cause of the inefficiency of the process. Lawyers noted that some courtrooms do not have court reporters,⁵¹ which can result in significant delays in getting transcripts for civil cases.⁵² Other lawyers noted the lack of interpreters,⁵³ which on its own can bring proceedings to a standstill. Understaffing in the court clerk's office can also be frustrating for parties trying to have their legal needs addressed.

Again, inadequate funding is not the only source of the problem. Lawyers also pointed out that some employees in the clerk's office lack the training, expertise, and professional attitude needed for the job. This is in part an issue that courts and clerks can and should address on their own, independent of their resource needs.

But funding is plainly a critical component of keeping courts working effectively, and 41% of the Chief Judges responded that the current size of their courthouse staff is moderately or extremely inadequate. Another 50% say that the staff size is slightly inadequate. Only two Chief Judges in Illinois say that the courthouse staff size is adequate.⁵⁴

7. Representation of the Indigent and Juveniles

Nothing is more basic to a criminal justice system than the requirement that those accused of crimes are entitled to legal representation. But more than 40% of the Chief Judges surveyed said that the availability of lawyers for the indigent and juveniles is either moderately (27%) or extremely (14%) inadequate. Only 36% of the judges said that the availability of lawyers for these groups is adequate. The lawyers who were surveyed generally agreed, with 39% of those who had a view saying the situation was moderately or extremely inadequate, and 44% saying that it was adequate.

⁵¹ One lawyer noted: "We should have court reporters in every courtroom." Another stated: "There are no court reporters (except in probate irregularly and [I] think divorce rooms), so that is clearly inadequate" See Appendix C.

⁵² One lawyer commented that "There are no court reporters for civil cases, only criminal cases. There is a substantial delay in obtaining transcripts of the recorded civil proceedings." Another said: "Electronic transcription has never worked, and they refuse to replace retiring court reporters." A third put it simply: "Need court reporters." Id.

⁵³ Lawyer comments include: "There is a substantial lack of court reporters and interpreters." "Number of interpreters is woefully inadequate, especially for civil matters." Understaffing is an issue "[p]articularly with regard to court reporters and interpreters." "Way too few interpreters." Id.

⁵⁴ Again, the lawyers who were surveyed saw less of a problem. Almost half of the lawyers (48%) believe that courthouse staff is adequate, and another 24% say staff size is only slightly inadequate. See id.



Even when attorneys who will accept court appointments can be found, the problem is not necessarily solved; as one judge delicately put it: “quality is one of the issues.” Other Chief Judges were less restrained. “There just isn’t much money, so attorneys don’t want to take those appointments and probably spend the minimum of time when they do.” The Chief Judge in another circuit similarly noted: “In the smaller counties, the pool of willing available attorneys is shrinking, in part because of local funding limitations.” One family law practitioner observed the effects in a particular class of cases: “We do not have a good procedure for people who are respondents in contested adoptions. At this time, the court is appointing special public defenders, however, those people are overworked and unable to give these cases the attention they deserve.”⁵⁵

The problem of unavailable or inadequate representation has a corrosive effect on the rest of the system. Cases take longer and are handled less efficiently, from initial processing through plea discussions and trial. More importantly, underfunding is directly linked to the risk of inadequate representation, as lawyers may be unable to spend the time on individual cases that is necessary. The inevitable result is that life-changing events – a criminal conviction, or detention for juveniles – can occur without the kind of attention that justice requires.

B. There’s a Leak In Your End of the Boat: Disparate Treatment in a Unified System

There is a tremendous disparity in resources available to different courts in different parts of the State. This disparity is fundamentally inconsistent with the constitutional promise of equal justice for all.

The surveys show that not all parts of the system are in equal distress. Judges and lawyers are generally satisfied with the level of public access to the courthouses,⁵⁶ for example, and judges are generally satisfied with their ability to cover jury expenses.⁵⁷ But in most cases, the good news in some aspects of the court system was regional, not State wide. The survey answers (and common experience) clearly indicate that some circuits have been able to withstand funding cuts much better than others. Richer counties are better able to protect the core judicial functions by providing more local funding and by reallocating existing resources; poorer counties often do not have that option.

⁵⁵ See *id.*

⁵⁶ Sixty-eight percent of the Chief Judges and 77% of the lawyers surveyed say that current level of courthouse access is adequate. See Appendices B, C.

⁵⁷ More than 75% of the Chief Judges reported that their ability to cover jury expenses was adequate (48%) or slightly inadequate (29%). The lawyers were not asked a comparable question about jury expenses.



As a result, there are large differences in the adequacy of the basic services available to people in different circuits. For example: when Chief Judges were asked to rate certain judicial services, the split between those who found no or slight problems on the one hand, and those who identified serious problems on the other, was stark.

Table 4

Chief Judge Evaluation of Services	Adequate or Slightly Inadequate	Moderately or Extremely Inadequate
Representation of Juveniles & Indigent ⁵⁸	59%	41%
Probation Services ⁵⁹	59%	41%
Centralized Case Management ⁶⁰	45%	55%

The results in the first two categories strongly suggest that the quality of justice a party receives turns in large part on where the case is heard. Lawyers in underfunded areas, for example, cannot consistently provide the type of representation that a juvenile or indigent person needs to ensure a fair outcome.⁶¹ Facts will go undiscovered, defenses will be missed, and the system as a whole will become less accurate.⁶² In both civil and criminal matters, parties without options may end up representing themselves,⁶³ a decision that rarely promotes efficiency or fairness.

⁵⁸ Thirty-six percent of the Chief Judges responded that funding for juvenile and indigent representation in their circuit was “adequate,” and another 23% said it was “slightly inadequate.” In contrast, 27% said funding was “moderately inadequate” and 14% said it was “extremely inadequate.” See Appendix B.

⁵⁹ Thirty-six percent of the Chief Judges said that funding for probation services in their circuit was “adequate,” and another 23% said that it was “slightly inadequate.” In contrast, 23% said the funding was “moderately inadequate” and 18% said it was “extremely inadequate.” *Id.*

⁶⁰ Twenty-seven percent of the Chief Judges said that their case management systems were “adequate,” and another 18% said that they were “slightly inadequate.” In contrast, 27% said their system was “moderately inadequate” and another 27% said it was “extremely inadequate.” *Id.*

⁶¹ Lawyers commented that “Public Defender caseloads greatly exceed [American Bar Association] standards,” that the availability of representation was “Inadequate in civil matters,” and that “workloads too high” for appointed counsel. See Appendix C.

⁶² The funding problems have not been limited to paying defense counsel. One Chief Judge noted that a county in his Circuit had lost its budget for Public Defender investigations. See Appendix B.

Not all of the comments were negative, however. One lawyer said that “through Prairie State Legal Services, the Public Defenders and volunteer lawyers, most people can be served.” Another said that “juve-



Disparities in probation services raise similar problems. Whether a defendant is sentenced to prison or placed on probation may depend on whether the circuit has adequate probation services, which depends in part on whether the counties can afford to fund officers beyond those paid with diminishing State dollars (see Part II.A.3, above). For those counties that cannot cover the shortfall, some individuals convicted of crimes will go to prison unnecessarily, at much greater expense, while others may go to prison for longer or shorter periods than is appropriate, simply because the resources were not available for presentence investigations. And of course, fewer officers also means less oversight of those who are on probation and supervised release, which virtually guarantees a higher failure rate, a higher re-incarceration rate, and a much greater cost to the system in both economic and human capital.

Technology offers the greatest promise for increasing court system efficiency, so it is not surprising that those circuits which can invest in technology, do so. But the lack of comparable and compatible case management systems means that some circuits remain stuck in an outdated way of doing business, and even those with modern case management systems cannot always communicate with the systems in other circuits. While investment in technology traditionally comes from the counties and not the State, the lack of adequate State funding may mean that scarce county dollars will be redirected toward more immediate needs, leaving little chance to reap the efficiency gains that technology can provide. At a minimum, the table reveals a troublesome gap between the circuits that can capture these efficiencies and those that cannot.

The Illinois Constitution provides for a unified court system throughout the State, and wide disparities in court services and court protections among the circuits are unfair and unwise. Just as “there can be no equal justice where the kind of trial a man gets depends on the amount of money he has,”⁶⁴ so too it is hard to maintain that Illinois circuits and counties dispense equal justice when the resources are unevenly available. But these differences are, and will continue to be, dramatic if the funding model continues to shift a larger share of the funding away from the State and onto the counties.

niles get adequate representation through PD office, but indigent have no representation unless they qualify for Prairie State Legal Services.” See Appendix C.

⁶³ One lawyer noted the “explosion in the number of *pro se* litigants in family law,” an area where the guidance of counsel is especially needed. Although neither the State nor the counties are obligated to provide counsel to indigent parties in civil cases, the lack of a lawyer contributes directly and significantly to slowdowns and other inefficiencies, costs that courts have to absorb. *Id.*

⁶⁴ *Griffin v. Illinois*, 351 U.S. 12, 19 (1956) (plurality opinion by Black, J.).



III. THE FUTURE

There is a great deal of work to be done to correct the funding problems that face the court system. The State's economy continues to struggle, and there are no magic solutions. Nevertheless, any long-term, realistic solution has at least five components.

1. Education. Judges and lawyers must do a better job of explaining why a healthy judicial system is vital to the safety, prosperity, and well-being of the people of Illinois. It is perhaps a sign of how well the court system has functioned over the years that people often take the rule of law, civilized dispute resolution, and effective criminal justice for granted. But these qualities of our society are not inevitable, and will not endure if we are unwilling to provide the necessary resources to make the system function.

The education must be ongoing and broad based. Lawyers and judges in general, and the State Bar Association in particular, must take the lead in explaining the multiple, often hidden, roles that courts play, and why these services matter in concrete terms. These advocates must also identify the critical audiences – the legislature that funds the courts, the executive branch that enforces the laws, local and other bar associations throughout the State, the business community, civic groups, recidivist and domestic violence prevention groups, juvenile justice coalitions and community leaders that depend on the judicial system – and engage these groups in discussion and collaboration. This education can take many forms – written (editorials and articles in targeted publications) as well as in-person presentations to governmental, civic, and business groups, for example. No form of outreach should be ignored.

2. Monitoring. The court system neither improves nor degrades all at once. As reflected in this Report, some parts of the system are making do with reduced support, while other parts are in crisis. This Report has identified a large number of problem areas, but believes that the most critical areas where new resources are needed are:

- Staffing Probation Services;
- Reducing Court delays; and
- Remediating severe problems with courthouse infrastructure.

There is no realistic solution to the current funding problems that is not incremental. It therefore is essential for lawyers and judges to continue to take the vital signs of the justice system, and sound the alarm when critical services are in jeopardy. Although piecemeal solutions to very large problems are never ideal, they can at least ensure that the most urgent problems are addressed first, and that the maximum return will be realized on any new resources.

3. Working Smarter. Courts must continue to look for ways to improve their work flow, reap the benefits of technology advances, and eliminate costly (in terms of both money and time)



and duplicative procedures. A great deal has already been done in this area, but the dynamic nature of the legal system means that constant attention to these problems is required. The Chief Judges and the Circuit Clerks should be provided a mechanism to share what is working and what is not – the wheel need not be endlessly re-created.

4. Reverse the Funding Trends. Lawyers and judges must take the lead in fixing the court funding problems, but they cannot do it alone. The State Legislature sets the allocation for the judicial system, and no solution is possible without legislative support.

The first step is to stop the erosion of funding for the judiciary, as highlighted in Part I of this Report. The State must be persuaded that any short term savings that come from cutting the courts' budget will be more than offset by increased costs in the near future.⁶⁵

The next step is to reverse direction and increase the resources devoted to the judicial system. Part of the solution must be an increase in the real dollar allocation for the courts. But there are other, more creative ways to increase revenues and cut expenses that should be explored. A closer legislative-judicial partnership, one that examines legislation before it is passed to determine the impact on the court system might be desirable. Taking greater advantage of the expertise and resources available in other government agencies and State Universities, particularly in the area of technological advancement, might also be explored.

The Bar Association should also seek closer working relationships with lawyer-legislators and the State Attorney General's Office on matters affecting court funding. By cementing and adding value to the relationships with our nonlawyer-legislators, we can increase the judiciary's voice at the legislative level and with the executive branch.

But ultimately there is no solution that that does not involve more money from the State. The financial problems are too deep, and the judiciary is too important, to believe otherwise.

5. Targeting greatness. Every government entity believes that is it critical to the State's mission, and many are. But any fair-minded assessment of the judicial system would conclude that the court system is at the very heart of what government should provide, and should be in the very top tier of funding priorities.

The long-term goal is a fully funded court system. Such a system would increase public safety, improve the business climate, and improve the quality of life for all citizens. In relative terms the cost will be modest, but the rewards would be extraordinary.

⁶⁵ Cutting probation services, for example, is likely to result in more incarceration in prisons, significantly driving up the State's overall costs See Part II.A.3, above.



CONCLUSION

Proper funding the Illinois court system is a commitment to the rule of law, to equal access to justice, and to the fair treatment of all citizens. The work of the judicial system touches virtually everyone in the State in highly important ways, and the benefits it provides – to the economy, to families, to public security, and to civic life – dramatically outweigh the costs. The system would be a bargain at three times the price.

No one has claimed that the current court system cannot do its job, but the breaking point is near. Greater awareness of the problem is the first step toward a solution. What must follow is a sustained commitment to reverse the reduction in court funding, to ensure that courts can continue to provide their critical, and constitutionally mandated, services to the people of Illinois.



APPENDICES

APPENDIX A: BUDGET AND FINANCIAL DATA

APPENDIX B: CHIEF JUDGES SURVEY DATA AND RESPONSES

APPENDIX C: LAWYER SURVEY DATA AND RESPONSES

APPENDIX A

Data for Chart 1: Court Appropriations Fiscal Years 2002 – 2013

Fiscal Year	Court Allocation	Change from Prior Year
2002	\$307,788,700	---
2003	\$298,276,700	-3%
2004	\$313,263,175	5%
2005	\$312,453,500	0%
2006	\$278,663,200	-11%
2007	\$287,212,700	3%
2008	\$297,769,428	4%
2009	\$307,481,800	3%
2010	\$301,791,300	-2%
2011	\$306,429,400	2%
2012	\$304,691,800	-1%
2013	\$308,687,000	1%

Sources: The Court allocation figures are taken from two sources. For fiscal years 2002-2003, 2006, 2008-2010, and 2012, the figures are taken from the corresponding Annual Report of the Illinois Courts, www.state.il.us/court/SupremeCourt/AnnReport.asp. The Fiscal Year 2004 Supreme Court budget was appropriated in Public Act 093-0091, with additional amounts in a supplemental appropriation bill, Public Act 93-0664. The Fiscal Year 2005 Supreme Court budget was appropriated in Public Act 093-0842, with additional amounts in a supplemental appropriation bill, Public Act 094-0015. The Fiscal Year 2007 Supreme Court budget was appropriated in Public Act 094-0798, with additional amounts in a supplemental appropriation bill, Public Act 095-0144. The Fiscal Year 2011 Supreme Court budget was appropriated in Public Act 096-0956, with additional money made available to the courts as referenced in Public Act 096-0956. The fiscal year 2013 allocation for the judicial branch is referenced in Public Act 97-0726.

Data for Chart 2: Court Appropriations, 2002-2013, in inflation-adjusted (2002) dollars

Fiscal Year	Unadjusted Allocation	Inflation Adjustment	Multiplier	Allocation in 2002 Dollars
2002	\$307,788,700	179.9	1	\$ 307,788,700
2003	\$298,276,700	184	0.977717391	\$ 291,630,317
2004	\$313,263,175	188.9	0.952355744	\$ 298,337,984
2005	\$312,453,500	195.3	0.921146953	\$ 287,815,590
2006	\$278,663,200	201.6	0.892361111	\$ 248,668,203
2007	\$287,212,700	207.342	0.867648619	\$ 249,199,703
2008	\$297,769,428	215.303	0.83556662	\$ 248,806,195
2009	\$307,481,800	214.537	0.838549994	\$ 257,838,861
2010	\$301,791,300	218.056	0.825017427	\$ 248,983,082
2011	\$306,429,400	224.939	0.799772383	\$ 245,073,771
2012	\$304,691,800	229.594	0.783557062	\$ 238,743,412
2013	\$308,687,000	232.773	0.772856012	\$ 238,570,587

Sources: For notes on the sources of the court allocation amounts, see page A-1 of this Appendix. The Inflation Multiplier was taken from the Average Annual Consumer Price Index, <ftp://ftp.bls.gov/pub/special.requests/cpi/cpi.txt>, for the relevant calendar year. For 2013, the inflation adjustment figure and multiplier numbers are approximate. The 2013 inflation adjusted allocation is derived from the CPI Inflation Calculator maintained by the Bureau of Labor Statistics, http://www.bls.gov/data/inflation_calculator.htm

The unadjusted allocation for each year was converted to 2002 dollars as follows:

$[\text{Allocation \$ amount for FY}] \times [179.9/\text{inflation adjustment for FY}] = \text{FY allocation in 2002 \$}$

The percentage drop in the courts' allocation in real dollar terms was calculated:

$[\$307,788,700 - \$238,570,587] / \$307,788,700 = 0.22489 = 22\%$

Total State Appropriations, 2002-2012 in Inflation-Adjusted (2002) Dollars

Fiscal Year	Unadjusted Appropriations	Inflation Adjustment	Multiplier	Appropriations in 2002 Dollars
2002	\$51,993,396,100	179.9	1	\$51,993,396,100
2003	\$52,745,612,000	184	0.977717391	\$51,570,302,167
2004	\$41,266,657,000	188.9	0.952355744	\$39,300,537,821
2005	\$45,623,521,000	195.3	0.921146953	\$42,025,967,373
2006	\$46,087,030,000	201.6	0.892361111	\$41,126,273,299
2007	\$48,494,435,000	207.342	0.867648619	\$42,076,129,566
2008	\$50,657,001,000	215.303	0.83556662	\$42,327,299,108
2009	\$52,129,701,000	214.537	0.838549994	\$43,713,360,446
2010	\$57,603,467,000	218.056	0.825017427	\$47,523,864,114
2011	\$60,213,505,000	224.939	0.799772383	\$48,157,098,367
2012	\$60,469,001,000	229.594	0.783557062	\$47,380,912,741
2013	\$60,398,286,000	232.773	0.772856012	\$46,679,178,300

Source: The unadjusted appropriation figures come from the Annual Report of the Illinois Courts, 2001-2011, www.state.il.us/court/SupremeCourt/AnnReport.asp

For the calculation notes, see page A-2 of this Appendix.

Data for Chart 3, Court Appropriation as a Percent of Total Appropriations

Fiscal Year	Court Appropriation	State Appropriations	Court % of State
2002	\$307,788,700	\$51,993,396,100	0.59%
2003	\$298,276,700	\$52,745,612,000	0.57%
2004	\$313,263,175	\$41,266,657,000	0.76%
2005	\$312,453,500	\$45,623,521,000	0.68%
2006	\$278,663,200	\$46,087,030,000	0.60%
2007	\$287,212,700	\$48,494,435,000	0.59%
2008	\$297,769,428	\$50,657,001,000	0.59%
2009	\$307,481,800	\$52,129,701,000	0.59%
2010	\$301,791,300	\$57,603,467,000	0.52%
2011	\$306,429,400	\$60,213,505,000	0.51%
2012	\$304,691,800	\$60,469,001,000	0.50%
2013	\$308,687,000	\$60,398,286,000	0.51%

Sources: See pages A-1 and A-3 for the sources of the Court and State appropriations, respectively.

APPENDIX B



**ILLINOIS STATE
BAR ASSOCIATION**

**Survey of Illinois Chief Judges on the
Ability to Provide Services Based on Current Court Funding**

January 11, 2013

1. Describe the current situation in your circuit with respect to each of the following.

a. Delay in moving civil cases through the judicial process:

1 - No delay	2 - Slight delay	3 - Moderate delay	4 - Significant delay	Average
36% (8)	27% (6)	36% (8)	0%	2.00

Comments:

1st Circuit – In some of the smaller counties, insufficient local revenues have resulted in budget reductions and staff reductions in the offices of the circuit clerks, and difficulty in processing caseloads and complying with statutory mandates.

11th Circuit – In most counties, the delay is manageable through the resources available to the Court. In complex litigation (class action, asbestos or related cases) the delay is very significant due to both the complexity of the case and the perceived length and burden of a jury trial.

15th Circuit – It varies by county. The larger counties have more trouble, but no real back-log.

22nd Circuit – We are currently in the process of conducting an ongoing caseload management initiative in our court for all divisions: Civil, Criminal, and Family.

b. Delay in moving criminal cases through the judicial process:

1 - No delay	2 - Slight delay	3 - Moderate delay	4 - Significant delay	Average
27% (6)	23% (5)	46% (10)	5% (1)	2.27

Report on the Funding Crisis in the Illinois Courts – Appendix B

Comments:

1st Circuit – In some of the smaller counties, insufficient local revenues have resulted in budget reductions and staff reductions in the offices of the circuit clerks, and difficulty in processing caseloads and complying with statutory mandates

11th Circuit – Persons in custody are generally moved through the judicial system with minimal delay. Persons not in custody may see significant delays based on lack of public defender and other resources. Time from arraignment to jury trial for persons not in custody is significantly longer than for persons in custody. Most counties (with the exception of McLean County) are hampered in case processing time by the number and part-time employment of Public Defenders, and in Logan County, the turnover within the State’s Attorney’s office.

15th Circuit – Varies by county.

22nd Circuit – We are currently in the process of conducting an ongoing caseload management initiative in our court for all divisions: Civil, Criminal, and Family.

- c. Courthouse conditions/infrastructure (physical structure, number of courtrooms, etc.):

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
18% (4)	5% (1)	59% (13)	18% (4)	2.77

Comments:

1st Circuit – Union County is building a new courthouse. Williamson County is building a new courtroom in space recently made available when the county moved some offices to a new facility next door. All of our counties are facing space shortage problems.

4th Circuit – 5 counties are adequate, 4 counties are moderately inadequate. Overall circuit I would call slightly inadequate.

8th Circuit – One county would fall in the extremely inadequate category.

11th Circuit – Slightly inadequate to extremely inadequate. Two counties are slightly inadequate (McLean and Livingston). Both have some limitations for space, and audio/digital recording capabilities need upgrading to meet the needs of any project for extended media coverage. Livingston County could not accommodate a large trial – courtrooms are limited in public seating. One county is moderately inadequate (Woodford). It has a new courtroom in a new portion of the building (2005 construction), but has some limitations for space, and audio/digital recording capabilities need upgrading to meet the needs of any project for extended media coverage. The older courtroom lacks many modern features, is not ADA compliant, and requires a window A/C unit which interferes with sound quality in the courtroom. The judicial chambers attached

Report on the Funding Crisis in the Illinois Courts – Appendix B

to the older courtroom in Woodford County is extremely inadequate, and there is no judicial security for this courtroom when the building is open, but court is not in session. Bathrooms are extremely inadequate in the older portion of the courthouse. Two counties (Ford and Logan) have court facilities which are more than 100 years old, are barely ADA compliant, and are extremely inadequate in comparison to modern facilities – sound, heat, lighting, audio/visual capabilities, security, bathrooms, and conference spaces. Both have courtrooms cooled by auxiliary A/C units in the windows which must be turned off to hear the litigants. The only positive for both courthouses is that there are large courtrooms available. It is doubtful that all courtrooms in either facility could be made ADA compliant or even be upgraded.

13th Circuit – Need an additional courtroom on occasion. No attorney/client conference room. No holding cells.

15th Circuit – Some counties are in good shape; one county (Stephenson) has a fairly dangerous situation with respect to security arising from the shortage of court security personnel and outmoded architecture.

16th Circuit – Inadequate for Kane County only.

20th Circuit – St. Clair, Randolph and Monroe Counties have slight issues. Perry and Washington have extreme issues, but Washington is in the process of constructing a new facility.

22nd Circuit – The physical structure is good. The oldest section was completed in 1972 and the newer section in 1992. However, we currently have slightly more judges (19) than courtrooms (18). The chief judge does not have a regularly assigned courtroom, but does have a court call one day a week when a courtroom is available and provides vacation coverage. The major current inadequacy is ancillary space for chambers, staff work area, probation, court reporters, ERS, meeting rooms and storage. All the areas set aside for expansion in the 1990's have been used and then some.

d. Courthouse security:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
27% (6)	9% (2)	36% (8)	27% (6)	2.64

Comments:

4th Circuit – Seven counties are adequate, two counties are moderately inadequate, circuit overall slightly inadequate.

5th Circuit – Security inadequate at two courthouses; moderately inadequate at one and extremely inadequate at two.

11th Circuit – Two courthouses have full security and judges and court staff have secured parking, video cameras that are remotely monitored, secured work

Report on the Funding Crisis in the Illinois Courts – Appendix B

areas, and panic buttons available to them. In three of the counties (Ford, Logan and Woodford) the only security is at the front door – and is usually only one staff person from the Sheriff’s office. In these counties, offices and courtrooms lack panic buttons, open directly to public areas (or are directly accessible to the public at all times the building is open), have few or no security cameras, judges and court staff must use public bathrooms, and there is no secured parking.

16th Circuit – The \$25 filing fee for court security should be increased 55 ILCS 5/5-1103.

17th Circuit – We need uniformed sworn deputies in the courtrooms. We need about 20 correction/transport officers.

22nd Circuit – We are fortunate to have good security at our main court facility. We recently relocated our Mandatory Arbitration Center outside of the main facility because of our space issues. There is no security at the Mandatory Arbitration Center because it is not a County facility.

- e. Size of court staff (i.e. the number of non-judicial personnel, including clerks, court reporters, interpreters, and other support staff):

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
9% (2)	50% (11)	36% (8)	5% (1)	2.36

Comments:

11th Circuit – Staff is limited to court reporters and clerical staff. All courts in the 11th Judicial Circuit lack direct support from IT professionals, and all rely on interns and 711 law students for legal research assistance. None of the counties has interpreter services on staff for any department. One judge lacks clerical support.

17th Circuit – We need two more court reporters and two more secretaries at a minimum.

22nd Circuit – As a relatively new circuit (2006), we have added staff in recent years. If we had space, we could certainly use additional staff devoted to IT issues specifically for the court and staff to facilitate/monitor our caseload management initiative. Aside from the chief judge who has an administrative assistant, the other 18 judges share 2-3 administrative staff positions for clerical support, etc. Several of the judges prepare their own decisions and correspondence at least in rough draft form. We have one research attorney for the court. We have seven court reporters and 16 courtrooms equipped for electronic recording of proceedings. We have two full-time Spanish language interpreters on staff. As we do not have sufficient court staff to do so, case scheduling for court calls has traditionally been done and continues to be done through the circuit clerk’s office.

Report on the Funding Crisis in the Illinois Courts – Appendix B

- f. Access to the courthouses by the public (i.e. hours or days of operation, access to the Circuit Clerk’s Office, etc.):

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
68% (15)	14% (3)	9% (2)	9% (2)	1.59

Comments:

11th Circuit – Hours are limited to weekdays between 8:30 AM – 4:30 PM in most instances. Most counties have not considered any operating hours after 5:00 PM, or on weekends.

12th Circuit – Long lines every day

21st Circuit – Hours are ok. Access is bad. ADA complaint is pending.

22nd Circuit – The courthouse is open to the public from 8 AM -4:30 PM each day the court is in session, Monday through Friday. As chief judge, I have received no complaints as to hours of operation. The circuit clerk’s office does maintain an outside drop box where the public can make after hours traffic court and other payments. The circuit clerk does have an online case search capability which can be accessed after hours which is available to the public. The circuit clerk also has for a fee remote access court file search service for attorneys and others in which limited but more detailed searches of records can be done from remote locations, including after hours. The circuit clerk will begin in August 2012 to e-file appellate records with the 2nd Appellate Court. The circuit clerk has had an application to become part of a civil court e-filing pilot project on file for some time and which is considered complete and is simply waiting approval by the Supreme Court/AOIC. The 22nd judicial circuit through the circuit clerk’s office is currently part of a pilot project with several other counties and the Illinois State Police in regard to the e-filing of traffic citations.

- g. Availability of probation services:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
36% (8)	23% (5)	23% (5)	18% (4)	2.23

Comments:

Report on the Funding Crisis in the Illinois Courts – Appendix B

10th Circuit – Staff cuts over the years affect adequate supervision of defendants.

11th Circuit – Availability of probation services is limited due to a lack of direct funding from the state for probation officers and probation services, particularly funding for specialty courts. Delays are present in every county in the preparation of Pre-Sentence Investigations, Social History reports, pre-trial services and other reporting. Some counties do not have the ability to offer pre-trial alternatives to incarceration due to the lack of staff and funding.

15th Circuit – Some of our probation offices are likely to have layoffs of some P.O.'s.

17th Circuit – Our probation caseloads far exceed standards. We need at least six P.O.'s.

22nd Circuit – The availability and quality of probation services in our county is excellent. However, as in most other circuits/counties, probation services in our county is under significant threat because of the failure of the State of Illinois to provide adequate funding for probation and has continued to increase the burden that is consequently placed on the local funding source, i.e. the county.

h. Availability of representation for indigents & juveniles:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
36% (8)	23% (5)	27% (6)	14% (3)	2.18

Comments:

1st Circuit – In the smaller counties, the pool of willing available attorneys is shrinking, in part because of local funding limitations.

9th Circuit – Quality is one of the issues.

11th Circuit – Representation for juveniles is adequate in all counties. Most counties have limitations in funding for representation of non-felony indigent defendants.

15th Circuit – There just isn't much money, so attorneys don't want to take those appointments and probably spend the minimum of time when they do.

17th Circuit – We need at least two more P.D.'s

20th Circuit – Primarily in Juvenile and Misdemeanor.

22nd Circuit – We have five special public defenders (conflict attorneys) under contract. We currently have three special public defenders handling primarily adult criminal cases and two special public defenders primarily handling juvenile court matters. I say primarily because there is some overlapping occurring usually because of situations where all of the special public defenders have conflicts. We could use one additional special public defender in both the adult and juvenile categories. The need is not so much based upon increased

Report on the Funding Crisis in the Illinois Courts – Appendix B

case load, but because of an increasing number of situations in which there are multiple attorney conflicts, and increase in the seriousness of charges and increases in the motion practice in criminal cases which make the handling of these cases much more time consuming for the attorneys. Even with the five special public defenders positions, it is still necessary on occasion to specially appoint counsel in cases which can be very expensive.

UNKNOWN CIRCUIT – Budget/personnel restraints

i. Availability of juvenile detention facilities:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
55% (12)	18% (4)	23% (5)	5% (1)	1.77

Comments:

2nd Circuit – We have an excellent detention facility, and it is currently accessible to all parts of our 12-county circuit because of a Federal grant subsidizing the expense of transporting minors to and from the facility. However, the facility is situated at the “edge” of our circuit: the distance from the furthest county seat to the facility is approximately 125 miles. Further, accessibility will be seriously threatened in the event the grant funding ends.

11th Circuit – There is a juvenile detention center in the 11th Judicial Circuit (McLean County Juvenile Detention Center – Normal, IL)

13th Circuit – No Detention Home in Bureau or Grundy Counties and no room if LaSalle County Detention Home is full.

20th Circuit – Funding operations is a critical issue, facilities are very good.

22nd Circuit – We do not have a juvenile detention facility in our county/circuit. We have had an intergovernmental agreement concerning detention with Kane County immediately to the south of McHenry County. The detention center is approximately 35 miles away from our courthouse. Before using the Kane County detention facility, we housed our juveniles in the McLean County Juvenile Detention facility approximately 150 miles away. We have found that the current arrangement is working well. Kane County runs a very good facility and has good programs. In short, the Court would prefer its own juvenile detention facility, but that will not happen any time soon. In the meantime, we have a good working arrangement with Kane County.

Report on the Funding Crisis in the Illinois Courts – Appendix B

j. Ability to cover jury expenses:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
48% (10)	29% (6)	24% (5)	0%	1.76

Comments:

10th Circuit – Yet courts need to examine cost savings

11th Circuit – Counties have been able to provide adequate funding for regular juror expenses, but have difficulty funding full juror expenses for complex litigation or very high profile criminal trials.

22nd Circuit – We are constantly striving to better manage jury expenses and have made good progress in recent years. We still have a way to go, but we are doing much better than in the past. We are better using the technology available to us in jury management area.

k. Centralized case management systems:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Average
27% (6)	18% (4)	27% (6)	27% (6)	2.55

Comments:

11th Circuit – Four of the counties utilize JIMS (Goodin & Associates), and one (McLean) has developed its own. All need serious upgrades, and the four other than McLean are only slightly integrated with the other judicial system offices. All need ability to accept electronic filing and to share information more freely. All are severely underfunded to enhance the software or hardware.

15th Circuit – Doesn't really exist in our circuit.

16th Circuit – We are in dire need of a new CMS for Kane County.

17th Circuit – We have one but it doesn't tell us what we need to know. We are constantly revising it.

22nd Circuit – Our circuit clerk has a relatively new case information system which captures a lot of data. We are currently trying to improve the case flow management in all of the divisions of our Court. The Court needs to be able to maximize its ability to mine data and create reports to help in the case flow management initiative project.

Report on the Funding Crisis in the Illinois Courts – Appendix B

2. As you consider the answers to Question 1, please rate how your court's current situation compares to the situation faced by your court 5-10 years ago.

1- Much better now	2 - Slightly better now	3 - About the same now	4 - Slightly worse now	5 - Much worse now
0%	14% (3)	19% (3)	43% (9)	24% (5)

Rating Average – 3.76 (on a scale of 1-5)

3. Have you experienced any budget reductions in the last 5-10 years?

Yes – 86.4% (19)

No – 13.6% (3)

Comments:

3rd Circuit – 30% in five years

4th Circuit – General reduction overall the counties of about 5%

5th Circuit – Cannot give a rough estimate. Reductions felt across the board.

6th Circuit – 5-10% probation and clerical

8th Circuit – A percentage reduction across the board

9th Circuit – No reductions, but absolutely no additional funding despite increased expenses.

11th Circuit – All budgets have seen declines of 4-10% over the past 5 years. There has not been growth in revenue sources or local property tax funding. Funding from the State for all probation services, and probation officers has been reduced, and the State contribution for probation services is about 60% of what it was in 2002. Almost every program is dependent upon the defendant paying the fee/fine or assessment, which leaves the revenue source lagging 6-18 months behind the case disposition. Counties have seen declines or flat growth in EAV, so property tax funding is flat at best. Many services previously offered by the State are no longer available to rural counties, leaving either a lack of services available (such as mental health treatment options) or a patchwork of underfunding social service agencies trying to address the needs.

12th Circuit – 30% - Reduced Probation Funding from the State. Inadequate funding from the County due to our population increase of 125,000 in ten years.

13th Circuit – Grundy County lost budget for Public Defender investigations.

15th Circuit – Approximately 5-10% over time for supplies; some probation departments have lost personnel due to county reductions in allocation.

16th Circuit – Two separate 5% reductions in budget.

19th Circuit – 30% probation

20th Circuit – Prosecution & Court Services \$300,000.

21st Circuit – 17%

Report on the Funding Crisis in the Illinois Courts – Appendix B

22nd Circuit – Our county administration has operated on a “flat” budget program for most of the past 20 years. It is not so much that the budget has been reduced by a percentage each year as it is that there has been little ability for growth. In the past 20 years, the population of the county has grown from 186,000 in 1990 to 308,000 in 2010. In 1990 there were 10 judges in the county, and today there are 19 judges. The funding did not keep up with the growth. The event which occurred in the past 10 years which gave us the biggest budgetary boost is when in 2006 we separated from the 19th Judicial Circuit and became a single county circuit – the 22nd. We were to work with the County to provide more adequate funding for the operations of the new judicial circuit. We appreciate the support which the County has provided and continues to provide to us. In turn, we strive to be a good steward of the resources provided to us.

Unknown Circuit -- Circuit clerk operating with fewer employees

Report on the Funding Crisis in the Illinois Courts – Appendix B

4. In your Judicial Circuit, how critical is the need for additional resources in the following categories?

Q #	Categories	Extremely Critical (1)	Moderately Critical (2)	Slightly Critical (3)	Not Critical (4)	Average
4.a.	Probation Departments	41% (9)	23% (5)	27% (6)	9% (2)	2.05
4.b.	Representation of Indigents & Juveniles	9% (2)	41% (9)	18% (4)	32% (7)	2.73
4.c.	Expert Witness Fees in Indigent & Juvenile Cases	14% (3)	27% (6)	36% (8)	23% (5)	2.68
4.d.	Juvenile Detention	14% (3)	18% (4)	27% (6)	41% (9)	2.95
4.e.	Jury Expenses	5% (1)	14% (3)	27% (6)	55% (12)	3.32
4.f.	Centralized case management systems	23% (5)	9% (2)	41% (9)	27% (6)	2.73
4.g.	Number of judges to handle case loads	5% (1)	9% (2)	23% (5)	64% (14)	3.45
4.h.	Courthouse Infrastructure	23% (5)	41% (9)	27% (6)	9% (2)	2.23
4.i.	Courthouse Staffing	14% (3)	23% (5)	50% (11)	14% (3)	2.64
4.j.	Courthouse Security	23% (5)	36% (8)	18% (4)	23% (5)	2.41
4.k.	Access to the courthouses by the public	14% (3)	9% (2)	18% (4)	59% (13)	3.23
4.l.	Court Reporters and/or Electronic Recording Devices	9% (2)	9% (2)	46% (10)	36% (8)	3.09
4.m.	IT Support & Computer Equipment to Support the Judiciary	23% (5)	18% (4)	41% (9)	18% (4)	2.55

Report on the Funding Crisis in the Illinois Courts – Appendix B

5. Using the categories listed in Question 4 above, please list your top three priorities for additional resources:

- Priority 1:** Probation (8), Juvenile Detention (4), Courthouse Security (3)
Priority 2: Courthouse Infrastructure (5), Tie – Centralized Case Management (3), Courthouse staffing (3), & Tie – IT Support (2), Courthouse Security (2), & Public Access (2)
Priority 3: Courthouse Infrastructure (5), Courthouse Security (3), Tie – Juvenile Detention (2), Court Reporters (2) & Probation (2)
-

6. Are there any other issues related to court funding that have impacted your circuit?

Comments:

2nd Circuit – Decreased funding for DCF, TASC and mental health/substance abuse treatment.

3rd Circuit – Probation

5th Circuit – Downsizing county government by County Boards, lower revenues, greater expenses, insurance costs to employees, wage freezes, hiring freezes.

6th Circuit – None I am aware of.

9th Circuit – We have very limited access to social services for things such as mental health services, substance abuse treatment, sex offender treatment, victim services, health care, and other specialized services.

10th Circuit – State must fund and reimburse local probation office more timely.

11th Circuit – Closure of mental health facilities has impacted the criminal courts in all counties, and has centralized the involuntary commitment process around the one hospital (Advocate-BroMenn in Bloomington, IL) and one court (McLean County). Decreases in funding for non-criminal legal service agencies (e.g. Prairie State Legal Services) has caused problems in the SC courts, foreclosures, dissolution and family cases and other places.

13th Circuit – Money for indigent SVP cases.

15th Circuit – We are frozen in time or slipping backward. Court systems should become more efficient through technology but instead – since we can't afford much – we lose those efficiencies.

16th Circuit – Reduction in probation funding by the State of Illinois.

17th Circuit – Unfunded state mandates.

21st Circuit – Public defenders affected – budget cut Courthouse security.

22nd Circuit – In the past 40 years, the population of McHenry County has grown from 110,000 in 1970 to 308,000 in 2010. It was an area which also had a growing economy and a strong housing market to support the public sector, and more specifically, the growth experienced by the court system. The economic growth, particularly in the housing sector, has stopped and, in many instances, has seen a

Report on the Funding Crisis in the Illinois Courts – Appendix B

sharp reduction. As most everywhere in this region, there is great uncertainty as to the stability of public finances in the current economic conditions. So far, McHenry County finances have remained relatively stable due to very good management plans by the County Board and County Administrator. The failure of the State of Illinois to meet its funding obligations and the continuation of the practice of the State to impose unfunded mandates on local public bodies, particularly on counties, is a great concern for the circuit courts of the state.

Cook – Discretionary funds for court use to increase access to justice.

Contact Information:

Name of Chief Judge: _____

Mailing Address: _____

E-mail Address: _____

Phone Number: _____

Judicial Circuit Number: _____

Name of Person Completing Survey if other than Chief Judge: _____

Title: _____

Mailing Address: _____

E-mail Address: _____

Phone Number: _____

APPENDIX C



**ILLINOIS STATE
BAR ASSOCIATION**

**Survey of ISBA Assembly Members,
Family Law, Child Law, Criminal Justice and Civil Practice and Procedure
Section Councils on the
Adequacy to Provide Services Based on Current Court Funding & Services**

April 25, 2013

1. Describe the current situation in your circuit with respect to each of the following.

a. Delay in moving civil cases through the judicial process:

1 - No delay	2 - Slight delay	3 - Moderate delay	4 - Significant delay	Rating Average
15% (17)	23% (26)	35% (39)	27% (30)	2.74

Comments:

ISBA Assembly Members

The worst delay occurs in the Domestic Relations courtrooms. Most trials are done in installments and there can be delays up to 4-5 months between hearing dates. There are not enough Judges to handle the case load. Due to economic pressures, many litigants are pro se which requires a lot more judicial time, particularly if both sides are pro se.

Usually attributable to opposing counsel.

Cases move at a glacial pace in Cook County Law Division. There is no reason why a simple negligence case involving a plaintiff and one or two defendants, at most, should take three to four years to litigate.

Some Judges are, of course, better than others.

Cases can generally be tried when the parties have completed discovery and are ready for trial. There may be scheduling issues if a particular judge's calendar is full on a certain date, but this usually does not lead to a delay.

Report on the Funding Crisis in the Illinois Courts – Appendix C

Getting trial dates is worse than pulling teeth. In addition, the family court does #2 and #3 settings which place you in a position to have to re-prepare multiple times if your case does not go forward as a #2 or #3 setting. In addition, family trials, once they begin, if they do not finish in the allotted time, they are continued out another 3 to 4 months, sometimes as a #1, sometimes as a #2 or #3 setting. I have had divorce trials last over a year with all the continuances between trial dates (i.e. start on Jan 4, continue to Jan 5, not complete, then continue to April 20, and so on).

Some motions go unaddressed for months, one even remained unaddressed for 3 ½ years.

Although there are delays, I don't know that they are attributable to funding issues or services, simply the volume of cases and the way many attorneys choose to litigate.

The courts are backlogged and the judges are more than willing to grant continuances and give long briefing schedules.

The case load is large and it is hard to find days for trial.

Very uneven in Domestic Relations in Cook, depending on the calendar or team a case is assigned to.

Paternity and child support courts do not have enough judges and court dates are slowed significantly.

Delays in investigative services regarding family court issues.

In my local circuit family court, it is sometimes taking over a year to get a decision that had been taken under advisement.

Too much discovery and the system is set up to hinder plaintiff's getting a case resolved or to trial.

Family Law Section Council

I'm in Cook County – practice exclusively in Domestic Relations. Too many cases that take a long time to resolve. Shortage of judges to move the cases more efficiently.

I practice in the family courts, and custody trials are taking a fairly long time to schedule and resolve.

Report on the Funding Crisis in the Illinois Courts – Appendix C

My civil cases involve DCFS. The delay mostly comes with DCFS having different requirements for timeliness under their regulations than the Juvenile Court Act provides for the courts to have.

Child Law Section Council

In Madison County, we are currently waiting in excess of 18 months and more for decisions in divorce, custody adoption and post judgment cases. Homes have gone into foreclosure and vehicles have been repossessed while we wait for decisions.

Criminal Justice Section Council

I am not considering things like continuances for tactical reasons. If you want a trial, you'll get one without delay.

Civil Practice & Procedure Section Council

Delay compared to what? This is asking for a subjective opinion without any objective criteria to compare it to. I could tell you that when you are ready for trial in the 17th Judicial Circuit you are lucky to get a firm date within a year.

b. Delay in moving criminal cases through the judicial process:

1 - No delay	2 - Slight delay	3 - Moderate delay	4 - Significant delay	Rating Average
35% (16)	22% (10)	28% (13)	15% (7)	2.24

Comments:

ISBA Assembly Members

The sheer volume of cases creates delays (Criminal delay).

According to criminal attorneys with whom I've had discussions, the reason for the delay is that the State's Attorney is over-charging and refusing to negotiate the charges.

Usually attributable to opposing counsel, motion practice.

Misdemeanor cases with jury demands can take some time to actually get to trial.

S.A.'s and P.D.'s are severely underfunded; investigation for P.D. is non-existent (Criminal delay).

Report on the Funding Crisis in the Illinois Courts – Appendix C

Family Law Section Council

Our State's Attorney has set up a management system that precludes effective negotiation and disposition of cases.

Based on clients not meeting with their attorneys before pre-trial or trial days.

- c. Courthouse conditions/infrastructure (physical structure, number of courtrooms, etc.):

1 – Adequate	2 – Slightly Inadequate	3 – Moderately Inadequate	4 – Extremely Inadequate	Rating Average
32% (38)	20% (23)	29% (34)	20% (23)	2.36

Comments:

ISBA Assembly Members

With the addition of the Justice Center and remodeling of several courtrooms, there are sufficient courtrooms. However, the older court rooms which were not remodeled are frequently over-crowded.

Although this is not the same from courthouse to courthouse in Cook. For example, the 4th Municipal District (Maybrook) Courthouse is rusting from the inside out.

Rock Island County is in dire need of a new courthouse.

The Daley Center is a relic from the 1960's. Compared to federal courts that are wired for today's technology, the Daley Center courtrooms are a joke.

Recent changes in Parentage Courts made a difference.

The courthouse is antiquated and in need of replacement. A referendum will be on the ballot later this year to determine whether to authorize a building commission to proceed with a new courthouse.

The heating and air conditioning does not work properly at all. No matter what the temperature outside or what season, there are some rooms that are almost as warm as a sauna and other rooms that are ridiculously cold all on the same day.

There are insufficient courtrooms, and in my opinion the non-courtroom space is not efficiently used and could be better used as courtrooms. There are not

Report on the Funding Crisis in the Illinois Courts – Appendix C

enough conference rooms and there is not enough space to meet with clients outside the courtrooms without having anyone who walks by hear what is said.

Certain courts – forcible, in particular are too crowded, calls are too long.

No appropriate places to meet, lack of physical resources.

Cook County – some courthouses such as Maywood are in terrible condition.

More than enough space and manpower if used more efficiently.

Family Law Section Council

No place for lawyers to speak to clients if jury trial. No room for children and parents.

I only practice in the Daley Center. Some courtrooms are fine – others are woefully inadequate causing security problems and hindering attorneys from being able to work at a counsel table.

We could well utilize an additional family court judge, and an additional juvenile abuse/neglect judge.

My courtroom has many code violations, and has mold visibly growing on the ceilings of some of the courtrooms.

Child Law Section Council

We could use larger courtrooms in family cases with more space for files, etc.

County board is at war with the legal system, and has been for over 35 years. Short sighted and penurious, they continue to waste a half million here and there to avoid doing the right thing.

Criminal Justice Section Council

Not enough space to wait or meet.

Civil Practice & Procedure Section Council

There should be more courtrooms, meeting rooms/corridors, and larger courtrooms to accommodate the growing number of cases.

The Rock Island County Courthouse is in poor condition. The county is holding a referendum in April to obtain authority for a building commission to take action to replace it. The facilities in the other 3 counties in the circuit are adequate to excellent.

Report on the Funding Crisis in the Illinois Courts – Appendix C

The courtrooms in the Daley Center are not equipped with technology for the 21st Century. The same is true of practically every courtroom throughout Cook County.

d. Courthouse security:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Rating Average
60% (84)	14% (19)	9% (13)	17% (23)	1.82

Comments:

ISBA Assembly Members

Almost too much security.

New security scanning devices were recently installed.

Varies from courthouse to courthouse.

Too much for civil and traffic courts.

The security does a fabulous job at moving the line to get everyone inside and at keeping litigants safe from other litigants when threats or threatening behavior is present.

There are too few court security officers to have one in each room. On some floors or during some uglier than normal cases, that is an issue.

Prisoners share the same hallway as the judges. The hallway is about 4 feet wide.

Family Law Section Council

Sometimes security is not diligent in searching people.

Good. It seems the number of deputies may have been cut back, but I haven't seen any problems, yet.

Report on the Funding Crisis in the Illinois Courts – Appendix C

- e. Size of court staff (i.e. the number of non-judicial personnel, including clerks, court reporters, interpreters, and other support staff):

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Rating Average
48% (58)	24% (29)	17% (20)	11% (13)	1.90

Comments:

ISBA Assembly Members

We should have court reporters in every courtroom

Almost too much staff.

There are no court reporters for civil cases, only criminal cases. There is a substantial delay in obtaining transcripts of the recorded civil proceedings.

Number of interpreters is woefully inadequate, especially for civil matters. Personnel in clerk's office is also inadequate in terms of numbers and training.

Real problem – circuit clerk's staff cannot perform their jobs.

As you know, there was a period of time when the circuit clerk's office would not even have a live person answer the phone. While this situation has improved, the clerks are unable to keep up with all of the filings. The foreclosure cases, especially, seem to bog down the clerks. Other staff seems to be adequate as far as I have experienced.

There are no court reporters (except in probate, irregularly, and I think divorce rooms), so that is clearly inadequate. The clerks are often uncooperative, untrained or bored enough that they simply no longer care. This is not solely a matter of funding, but training, supervision and attitude.

There is a substantial lack of court reporters and interpreters.

Particularly with regard to court reporters and interpreters.

Too few interpreters.

Report on the Funding Crisis in the Illinois Courts – Appendix C

Family Law Section Council

Cut-backs have affected the number of support staff. Some are very overworked; others have nothing to do. It impacts the ability to move in and out of a courtroom.

Child Law Section Council

Need court reporters.

Electronic transcription has never worked, and they refuse to replace retiring court reporters.

- f. Access to the courthouses by the public (i.e. hours or days of operation, access to the Circuit Clerk's Office, etc.):

1 - Adequate	2 - Slightly Inadequate	3- Moderately Inadequate	4 - Extremely Inadequate	Rating Average
77% (92)	13% (16)	8% (9)	3% (3)	1.36

Comments:

ISBA Assembly Members

There should be more internet access to court materials (records, forms, etc.).

Need to continue working on technology.

Child Law Section Council

Litigants are waiting for extended periods of time to enter the courthouse.

Civil Practice & Procedure Section Council

Should be open later to accommodate people who work.

- g. Availability of probation services:

1 - Adequate	2 - Slightly Inadequate	3- Moderately Inadequate	4 - Extremely Inadequate	Rating Average
42% (18)	23% (10)	12% (5)	23% (10)	2.17

Report on the Funding Crisis in the Illinois Courts – Appendix C

Comments:

ISBA Assembly Members

Staff cuts over the years have affected adequate supervision of defendants.

A nightmarish lack of probation services putting public safety at risk.

Family Law Section Council

Probation works very hard with little resources. In Southern Illinois we have very few service providers to help families.

h. Availability of representation for indigents & juveniles:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Rating Average
44% (29)	17% (11)	21% (14)	18% (12)	2.14

Comments:

ISBA Assembly Members

Through Prairie State Legal Services, the Public Defenders and volunteer lawyers, most people can be served.

Public Defender caseloads greatly exceed ABA standards.

Inadequate in civil matters.

There was an explosion in the number of pro se litigants in family law.

Workloads too high.

Juveniles get adequate representation through PD office, but indigents have no representation unless they qualify for Prairie State Legal Services.

Family Law Section Council

More help is needed - I don't know how it can be funded or where it will come from.

Civil Practice & Procedure Section Council

What about assistance for indigent attorneys?

Report on the Funding Crisis in the Illinois Courts – Appendix C

i. Availability of juvenile detention facilities:

1 - Adequate	2 - Slightly Inadequate	3 - Moderately Inadequate	4 - Extremely Inadequate	Rating Average
11% (4)	22% (8)	38% (14)	30% (11)	2.87

Comments:

ISBA Assembly Members

There is no Juvenile detention facility in the county. We are forced to contract with a facility which is over a 1 ½ hour drive away.

We share with Joliet through the River Valley Detention Center.

Family Law Section Council

We use St. Clair County and Franklin County detention centers. This means we wait for them to be present for court.

Need more IDJJ facilities to house juveniles sentenced there for a longer term.

Child Law Section Council

We do not have a good procedure for people who are respondents in contested adoptions. At this time, the court is appointing special public defenders, however, those people are overworked and unable to give these cases the attention they deserve.

2. As you consider the answers to Question 1, please rate how your court's current situation compares to the situation faced by your court 5-10 years ago.

The situation is much better now	The situation is slightly better now	The situation is about the same now	The situation is slightly worse now	The situation is much worse now
4% (4)	16% (17)	36% (39)	26% (28)	19% (21)

Rating Average – 3.42

Comments:

ISBA Assembly Members

Facility is inadequate for needs of Kane County; using a multi-purpose room for a courtroom is not good.

Report on the Funding Crisis in the Illinois Courts – Appendix C

Court (Judicial) hours of work and timeliness.

Affordability of court fees and difficulty in obtaining court waivers are issues. For those who truly need fee waivers, the application process and court appearance is somewhat embarrassing.

State must fund and reimburse local probation office more timely.

We are back in the 1950's with carbon paper for orders because the circuit clerk killed the print shop. We need funding for necessary forms.

I am not an advocate for additional resources, but for better management of existing resources. Any new resources will likely be paid for by new and additional filing fees, to which I am opposed.

No library available, although it is part of the clerk's fee when a new case is filed. Would be helpful to have courtroom recording devices.

Availability of Court Form Orders is always a crap-shoot. Carbonized forms are SO much better.

The clerks are moved around into different departments. They used to be trained in one area of law and knew the filing system for that area extremely well. Now, they are confused, make mistakes, and have to call for assistance numerous times because they are moved around to every area of the law, they do not have enough knowledge of any area to be efficient and accurate.

Online case access for information and copies of filings.

It is embarrassing how the Clerk's office has actually fallen behind despite better technology. Having lawyers wait in lines for basic filings is not productive. It has actually gotten much worse over the years.

The lack of funds permeates the whole courthouse and the case load continues to increase as well as the complexity of the cases. There is a need for video recording of hearings and electronic filing.

Court fees are outrageous for filing.

Hiring freezes and reductions significantly and negatively impact necessary services.

Reduction of State reimbursement.

Report on the Funding Crisis in the Illinois Courts – Appendix C

Not only is there a shortage of staffing, but the staff in the circuit clerk's office and sometimes in the county clerk's office is often difficult to deal with. The clerk's office often seems troubled to have to help people.

Abuse and neglect and juveniles are held to tasks they cannot complete because there are no services.

Family Law Section Council

We have been fortunate to secure grants for TIP and Family Drug courts, which are effective and should be expanded.

Cook County could dramatically increase service and efficiency if it harnessed any of today's technology.

Child Law Section Council

We have closed our Juvenile detention facility.

The issue is that the county board is populated with idiots. They spend millions on animal control and refuse to build or populate a proper judicial center. County offices are spread all over, causing confusion, wasted time and resources.

Civil Practice & Procedure Section Council

In the 11th Judicial Circuit, we can't access docket sheets from outside the courthouse. Judges can't operate the phone systems to allow for CMC by telephone. The lack of technology in this circuit is embarrassing. These issues cause delays in cases and additional costs to clients.

Report on the Funding Crisis in the Illinois Courts – Appendix C

3. In your Judicial Circuit, how critical is the need for additional resources in the following categories?

Q #	Categories	Extremely Critical (1)	Moderately Critical (2)	Slightly Critical (3)	Not Critical (4)	Rating Average
4.a.	Probation Departments	32% (15)	21% (10)	19% (9)	28% (13)	2.43
4.b.	Representation of Indigents & Juveniles	22% (15)	24% (16)	27% (18)	27% (18)	2.59
4.c.	Expert Witness Fees in Indigent & Juvenile Cases	18% (10)	40% (22)	18% (10)	24% (13)	2.48
4.d.	Juvenile Detention	23% (13)	21% (12)	14% (8)	41% (23)	2.74
4.e.	Jury Expenses	20% (13)	23% (15)	29% (19)	28% (18)	2.65
4.f.	Centralized case management systems	23% (23)	28% (28)	20% (20)	28% (28)	2.54
4.g.	Number of judges to handle case loads	19% (21)	27% (30)	19% (21)	36% (41)	2.73
4.h.	Courthouse Infrastructure	17% (19)	28% (32)	27% (31)	29% (33)	2.68
4.i.	Courthouse Staffing	10% (12)	22% (25)	30% (34)	38% (44)	2.96
4.j.	Courthouse Security	10% (11)	13% (15)	24% (28)	54% (62)	3.22
4.k.	Access to the courthouses by the public	8% (9)	12% (13)	14% (15)	66% (72)	3.38
4.l.	Court Reporters and/or Electronic Recording Devices	17% (19)	26% (30)	17% (19)	40% (46)	2.81
4.m.	IT Support & Computer Equipment to Support the Judiciary	35% (35)	26% (26)	19% (19)	21% (21)	2.26