

PROGRAM MODELS

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Trial Court Management Series



Financial Management

U.S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement
and Criminal Justice



Program Models are a synthesis of research and evaluation findings, operational experience, and expert opinion in a criminal justice topic area. Each report presents a series of programmatic options and analyzes the advantages and disadvantages of each. The intent is to provide criminal justice administrators with the capability to make informed choices in planning, implementing, and improving efforts in a program area. The Models may also serve as the basis for LEAA testing and demonstration efforts.

COURT MANAGEMENT PROJECT

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consultants not directly involved with the operations of a specific trial court also provided assistance. To broaden our perspective, David Bourland and William Higham offered their experiences with prosecutorial and defender agency operations to the project's work in the caseflow area and in the development of the records report. Dale Lefever provided similar assistance to our development of the personnel and financial reports. Continued guidance in developing these latter reports was given by William Bohn and Gerald Kuban and many helpful suggestions for the financial report were offered by Carl Baar who reviewed the final draft. Candid and very helpful review of all drafts was provided by Ernest Friesen and David Saari.

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I. AN OVERVIEW OF COURT FINANCIAL MANAGEMENT

A. The Trial Court Environment for Financial Management

1. **The management environment.** Many trial courts do not meet public administration norms of internal administrative coherence. Trial court functions are often performed by a loose coalition of organizations or agencies, each of which has a considerable degree of administrative autonomy. It is uncommon for a trial court to have an organizational structure that places all court financial functions under one manager.

This lack of internal cohesion is reflected by the fact that many trial courts do not fund their operations through a single budget. Quite commonly, two or more separate budgets are submitted¹, each of them reflecting the management views in an organization or agency engaged in some aspect of trial court operations. These budgets are subject to varying degrees of control by the judiciary and may occasionally be submitted without any opportunity for the judiciary to review them.

The most common example of administrative autonomy within trial courts is the authority accorded to elected clerks in many states. Elected clerks often are granted a high degree of administrative independence by law and may have the added authority conferred by local tradition and political power. Even in a court with a trial court administrator, a clerk may retain control over major areas of financial administration, particularly those related to the collection and distribution of funds, costs and fees. Some clerks are still on a fee system,² funding their offices in whole or in part from collected revenues.

Other organizational components of trial courts that frequently have considerable administrative autonomy are probation departments, juvenile courts and other special jurisdiction courts. Moreover, the financing of court security is often covered in the budget of a sheriff or a law enforcement agency. Other examples could be cited. The key fact is that court financial management must often occur in an environment characterized by diffusion of administrative authority and multiple budgets.

A second key factor in court financial management is

¹For example, there are five budgets submitted on behalf of the Superior Court of Maricopa County (Arizona).

²For example, the circuit and chancery clerks in Mississippi.

heavy dependence on executive branch agencies for performance of management functions. Many trial courts rely on the executive branch for fund accounting, cash accounting, distribution of revenues, contracting, purchasing and virtually every aspect of financial management. In budgeting, many courts do no more than routinely comply with executive branch requirements without making any internal management use of the budget process.

The tendency of trial courts to defer to the executive branch in matters of financial management is quite widespread. Trial courts have long been accustomed to the view that county or city offices should handle financial management. This view has been tempered somewhat by the advent of trial court administrators, but there is a strong continuing tendency to narrowly limit the scope of judicial responsibility for financial management. Many trial court administrators embrace this restricted version of trial court management, feeling it is unduly wasteful and burdensome for courts to erect their own financial management systems.

Since there has not been a strong inclination among judges and court administrators to exercise a full range of financial management responsibilities, there has not been great pressure applied by the judiciary on the other branches for a greater financial management role. The exceptions are found primarily in states with unified systems, where the removal of trial courts from the management structure of local government literally forced a clarification of the new management roles of the trial court judiciary.

Without a strong disposition to exercise court management functions, there has been limited interest in building up the financial management capabilities within trial courts. There are very large courts where the only financial management function is budgeting, and even that function is often seen as a seasonal exercise of a routine nature.

It can be fairly said that many trial courts lack some or all of the following conditions for effective financial management:

- internal administrative coherence;
- some person or persons with authority to manage all the financial affairs of the court;

- a disposition to exercise the management authority; and
- a capability for exercising the management authority.

There is a clear, current need for trial courts to reexamine their financial management role.

2. The legal and governmental environment.

a. *Legal responsibility for funding trial courts.*

Traditionally, general jurisdiction trial courts have been part of the fabric of local government and have received their basic funding from county and, occasionally, city governments. The great majority of trial courts are still dependent on local funding.

There is, however, an increasing trend to make states legally responsible for some or all of the costs of trial court operation. In those states which have undergone administrative unification, state funding of trial court operations is virtually total.³ There are several states which are moving toward total state assumption and are in an interim mode where major parts of the trial court system are state-funded.⁴ Most trial courts receive only limited state funding, usually for such items as judicial salaries, judicial expenses, court reporters and judicial secretaries.⁵

The level of state funding has important implications for court financial management, since the government which supplies the money is the government which determines management procedures, particularly budgetary procedures. In a totally unified system, the budget process is that imposed by the state executive branch, possibly including procedures established by the state supreme court. Submission of a trial court budget is made to the state court administrator for inclusion in the overall court budget presented to the other branches of state government.

In a partially unified system, a trial court may find itself dealing with two budget processes—one governed by the state, the other by a local government. In such states, a state court administrator will often submit a budget to cover the state portion of trial court costs, relieving individual trial courts from direct dealing with the state.

In those systems where the state pays only a few legally mandated trial court costs, no formal budget submission to the state may be required. The mandated items, such as judicial salaries, are often automatically included in the state budget or do not require an appropriation. For most trial courts, the local government budget process is still the key process, and the state

budget process is fairly peripheral.

Although state and local budgetary processes provide the principal source of trial court financial support, trial courts often have access to other funding sources. To the extent that other funding sources exist, they supplement or displace appropriations from state and local general funds and affect the way in which state and local governments carry out their financial obligations toward courts. Table 1 contains the principal funding sources from which trial courts are financed.

As indicated in Table 1, trial court financing cannot be viewed entirely in terms of general fund appropriations. Nor can the level of general fund appropriations for courts be viewed in the same light as the funding given to an executive branch agency. Trial courts, particularly those operating entirely within the local government framework, have a different legal status than executive branch agencies.

In some states (e.g., Alabama), there are strong constitutional requirements for adequate legislative funding of the whole court system. In West Virginia the constitution prohibits the state legislature from cutting the judicial budget, a prohibition challenged by the legislative branch.⁶ While such constitutional mandates tend to be general, they underscore the unique role of the judiciary in the budgetary arena.

Other states (e.g., Iowa and Illinois), have statutes which permit courts to mandate county general fund appropriations for major aspects of court operations. In states where there is no explicit legislative recognition of the special status of courts, trial courts have occasionally resorted to mandamus or court-ordered appropriations to obtain adequate funding (e.g., Indiana). The salient fact is that many trial courts view themselves as having a unique budgetary status because of their position as the third branch of government.

b. *Legal responsibilities for collection and distribution of court costs, fines and other monies.* Trial courts generally have a legal obligation to collect and distribute fines, costs and a great variety of other funds paid into the court. The nature and scope of this legal obligation determines the type of financial systems which must be employed. Typical of the monies collected and distributed are the following:

(1) *Fines and forfeitures.* One of the largest single items of court-collected revenue is the money collected in fines and bail forfeitures. This revenue is very large in limited jurisdiction trial courts, but usually does not amount to much in a general jurisdiction court. Fines and forfeitures usually go into state or local general

³For example, Hawaii, Alaska, Colorado, Alabama, North Carolina, New Mexico, Rhode Island, Maine and Kentucky.

⁴For example, Kansas and New York.

⁵For example, in Arizona the state only pays one-half of the salaries of general jurisdiction judges.

⁶See *State Ex. Rel. Bagley and Swigert v C.A. Blankenship*, decided June 19, 1978, upholding the state constitutional provision prohibiting reduction of the judicial budget.

TABLE 1. *Funding Sources for Trial Courts*

Source	Description ^a
State General Fund	Principal source in a financially unified system, but probably accounts for 15%-30% of court expenditures in most states.
State Special Funds	Occasionally, there are special state funds earmarked for court purposes and fed by some fee or cost collected in courts, (e.g., judicial retirement fund fed primarily by a special court cost).
County General Funds	County general funds remain the primary source of trial court funding in most states.
County Special Funds	General legislation or special legislation sometimes establishes county funds earmarked for court use by certain fees (e.g., law library funds). These funds supplement the normal county appropriation for courts.
Municipal General Funds	Municipal general funds support some trial courts and are analogous to county general funds.
Capital Funds	Trial courts may have access to bond money or other funds for capital expenditures.
Federal Grant Funds	A small, but not insignificant, amount of federal grant money is used for court purposes. It is primarily LEAA money, but courts also receive money under the Highway Safety Program of the Department of Transportation, CETA and some Health, Education and Welfare money for various social programs related to courts.
Federal Revenue-Sharing	There are some locally-funded trial courts which receive local revenue-sharing funds to support some aspect of court operations.
Fees	In a few states, clerks and justices fund their office in whole or in part from fees. In some states, these fees may be collected from parties and retained, or the fees may be paid to a clerk or justice by a state or local government after submission of a request for payment.

funds; but some states still retain fine and forfeiture funds with earmarked purposes. The laws on division of fines and forfeitures between state and local governments vary from state to state and are generally influenced by one or more of the following factors: the relative state and local responsibility for financing trial courts; the relative percentage of arrests made by state law enforcement agencies and local law enforcement agencies; and the degree of local government dependence on revenues from fines and forfeitures.

(2) *Fees and costs related to cases.* Most states impose a number of fees or costs on parties to cases. The amounts and the timing of the collections vary with the seriousness of the case, the court level and whether the case is civil or criminal.⁷ Usually, there is some flat cost-per-case, supplemented by a variety of other special costs, such as: fees for officer services (e.g., sheriff fees or court reporter fees); special assessment for a special fund (e.g., police or judicial retirement, indigent defense or driver education); or for judgment enforcement (e.g., execution and garnishment fees). Some of these case-related fees and costs go to earmarked funds, some of which do not have court-related purposes (e.g., a school fund); some go to funds earmarked for court purposes (e.g., a law library fund); but most go into state or local general funds.

(3) *Fees and costs unrelated to cases.* Many courts collect fees that have nothing to do with a specific case, but are collected as a *quid pro quo* for some

service, such as certifying a record.

(4) *Paid-in funds.* Court clerks in some jurisdictions are legally compelled to serve as a conduit for funds passing between individuals or organizations. The legal responsibility takes several forms, as indicated below:

- serving as a trustee for funds paid into court for investment and ultimate distribution to a named beneficiary;
- serving as a pass-through agent for funds paid in for the benefit of a particular individual or organization (e.g., support payments, restitution or condemnation award); or
- serving as a temporary holding agent for cash bail payments.

In some jurisdictions, state law describes, in considerable detail, the type of records and procedures to be followed by trial courts in connection with various funds received by the court. Usually these obligations are imposed on clerks. Typical of the requirements imposed by statute or by rule of court are that:

- cash books or other books of account be maintained to record receipt and disbursement;⁸
- there be periodic audit by an executive or legislative branch auditor;
- that courts use prescribed procedures and forms for distribution of receipts to government agencies;
- that courts report receipts and distributions to state-level agencies;

⁷Criminal costs cannot be collected until a judgment has been entered. Civil costs can be collected at filing.

⁸Cash books, common in many rural states, are very simple single-entry journals that cross-index case numbers, receipts and docket entries. The system serves an auditing purpose, but little else.

- that courts adhere to regulations on banking practices; or that
- court employees handling money be bonded.

The legal requirements affecting cash handling are often anachronistic and may impede, rather than promote, court financial management.

c. *Inter-branch relationships.* The power relationships between the three branches necessarily affect the way a trial court approaches financing of court operations. There are jurisdictions where the budget for trial courts is not subject to executive branch reduction⁹ or is not even submitted to the executive branch at all.¹⁰ Short of these rather unusual circumstances, there are various gradations in judicial budgetary independence, ranging from a more or less *pro forma* executive and legislative branch acceptance of a lump sum court budget all the way to a total domination of trial court budgeting by the other branches.¹¹ This domination may take the form of executive branch preparation of the court budget. It may also take the form of various restrictions on the use of budgeted funds, such as very detailed line items with limited transferability between line items or a system of quarterly allotments.

The posture of a trial court in relation to the other branches is not entirely a matter of legal authority. Almost as important is: the personal stature of the presiding judge; the credibility of the judiciary and the top administrators in the court; and the personal relationship between court officials and the executive or legislative branch officials with financial management authority. Some trial courts enjoy a strong budgetary position even though the political and legal strength of the court is not great. The ultimate test of a trial court's status as a separate branch of government is its ability to obtain the funding it needs and its ability to freely allocate the funds it receives. A number of trial courts have a weak status in both areas.

Where a trial court is denied the level of funding necessary to operate the court effectively, it can resort to the ultimate judicial weapon—invocation of inherent powers. This amounts to an assertion that the judicial branch, as a function of its independence, has the inherent authority to mandatorily require the other branches to supply the resources required by the court. Resort to inherent powers is only a last effort, since it involves a test of power between the judicial branch and the other two branches of government. It is a struggle where the

court may win the battle in court, but lose the war in the broader realm of local politics. Unfortunately, courts are sometimes pushed to this extreme.

3. The financial environment.

a. *The basic money flows in trial courts.* Court financial management deals primarily with the basic functions of obtaining funds for court operations, controlling the expenditure of these funds and keeping records relating to these expenditures. In this sense, court financial management is not greatly different from financial management in other governmental organizations.

There are some unique aspects of court financial management arising from the fact that courts collect and distribute fines, costs and fees, and serve as conduits for various funds paid into the court for the benefit of individuals.

Since trial courts generally have a major responsibility for collecting and distributing funds, court financial management must deal not only with the normal flow of budgetary appropriations to support court operations, but also with the flow of cash for redistribution. These two basic money flows are composed of various lesser flows, which are depicted in Figure 1.

The flow of money to support court operations encompasses three different types of funds: general fund appropriations; grant and revenue-sharing funds; and special funds fed by earmarked costs and fees. The flow of money into courts for redistribution also encompasses three different types of funds: funds paid into a trust to be held for ultimate distribution; costs, fees and fines to be

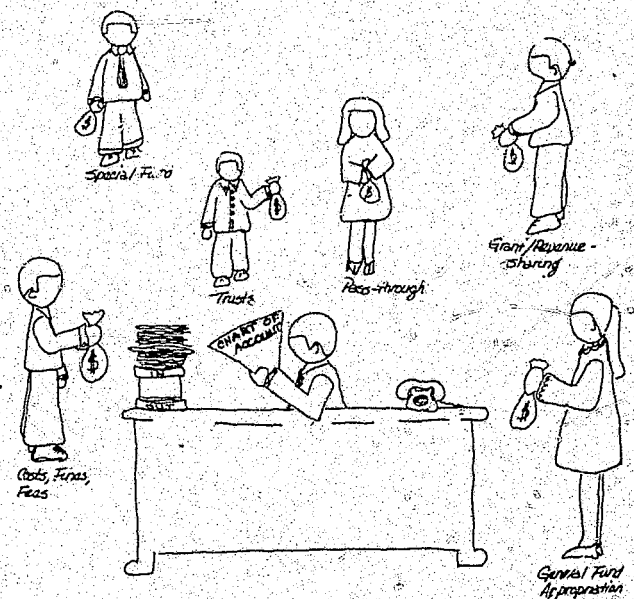


Illustration 1: Managing the Moneyflow in a Trial Court

⁹By law, the executive branch of the District of Columbia has only a power of review and comment over the Superior Court budget, but exercises budgetary control under other statutes.

¹⁰In Hawaii, a unified court system, the trial court budget is submitted directly to the legislature.

¹¹Mississippi presents an extreme example. Trial courts have a very limited role in the budget process.

Trial Court Management Series

Financial Management

by
Robert Tobin

July 1979

**U. S. Department of Justice
Law Enforcement Assistance Administration
National Institute of Law Enforcement and Criminal Justice**



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PREFACE

The Court Management Project was initiated by LEAA's National Institute of Law Enforcement and Criminal Justice to provide trial court judges and administrative staff with a management report series addressing three critical aspects of workload and resource management: financial, personnel and records. In addition, extensive attention was also given to trial court caseload management in the course of this study, and general observations regarding caseload management are offered in the project's Executive Summary report. The Project began August 1, 1977 and was completed August 31, 1978.

The principal purpose of this report series has been to provide a framework within which the operations of trial court systems can be assessed, monitored and improved as needed. Although this framework is intended to have general application to all trial courts, there are many variables which must be considered before any specific management approach to an individual court is developed. These variables should be noted by the readers as they use these reports and analyze management activities in their jurisdictions.

We would have preferred to develop a set of integrated handbooks, each organized around a common set of topics and following a consistent pattern of development and application. However, because of the considerable differences in the locus of authority and scope of responsibility for managing each of these areas of court operations, each report was organized in a manner to reflect the nature of management activities involved. As a result, the reports do not follow a consistent format.

There is, however, a common philosophy which underlies all of the reports and a number of common elements contained within them. The basic premise of the report series is that each of these management areas must be approached systematically. To this end, each report has been developed around the principal management goals and functions which the various operational components of a court must support and against which a court's management activities can be assessed. Suggestions for developing or improving management capability in each area are measured both in discussions of specific management activities and in a series of assessment questions. Since some of the suggested management goals may be in conflict, these assessment guidelines can also enable a court to determine management priorities and weigh the tradeoffs of pursuing one course of action rather than another.

In preparing these reports, much effort has been made to draw upon the experiences of a diversity of trial courts in handling specific aspects of these management responsibilities. Where possible, we have identified and documented those management techniques and approaches which have been effective in one environment and might be adaptable to other jurisdictions. Whether or not they can, in fact, satisfy the management needs of other courts must be determined on the basis of the goals and priorities which those courts have set and by the range of structural and organizational factors which determine the system in which they would function.

Despite the extensive site investigation upon which this project has been based, the focus of each report is upon the overall management process of a trial court in dealing with each of the specified court operations. No attempt is made to prescribe procedure. Study of numerous trial courts during the thirteen months of the project's operation has made it apparent that there is no "best way" to handle any of these functions. With proper planning, communication, coordination, and monitoring, a variety of management techniques can prove useful; without such groundwork—and particularly, without a sensitivity to and

appreciation for the needs, expectations and informal relationships among the individuals and organizations comprising a local trial court system—what works well in one jurisdiction can fail in another despite surface similarities of organization, size and structure.

Each report consists of two interrelated parts: text and examples. The text provides the framework in which identified management activities occur; the examples, generally provided in the appendices, demonstrate their specific application. Together, they are intended to provide a frame of reference for managers in developing their management programs. Implementing and monitoring the management processes described are tasks which must be performed by the individual court and must be geared to the local needs, resources, and structure which that court serves.

In all, four reports have been produced by the Project:

- Financial Management
- Personnel Management
- Records Management
- Executive Summary: Background,
Methodology and Supporting Materials

The reports are organized on the basis of subject for ease of use. They should, however, be considered as interdependent parts of the series. This report addresses Financial Management. However, any "financial" management activities necessarily have potential records and personnel implications. In using these reports, we suggest that the interrelationships of all management activities be continually kept in mind. Where possible, cross references to other portions of the report series are provided together with a cross index by subject matter to all reports.

This project owes an enormous debt to many individuals who provided information, suggestions and support during the course of our work. Each person with whom we spoke enriched our perspective and added to our understanding of trial court management needs.

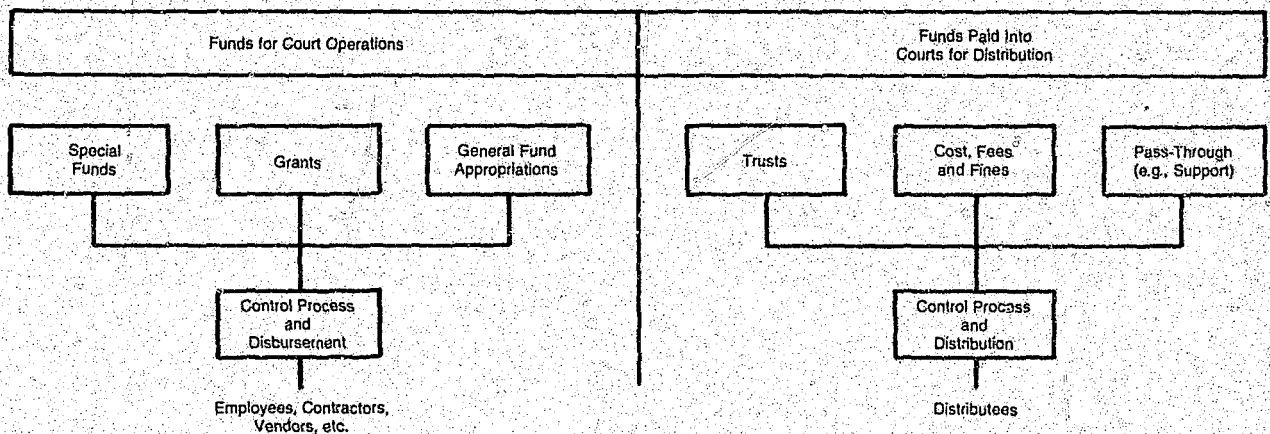
The willingness and candor of trial court judges and staffs across the country to discuss their management activities was the cornerstone for the project's work. Those who helped us on site, over the phone and by responding to the project survey gave us insight into many trial court management issues which might not otherwise have been noted. Although the number of individuals involved precludes listing of them by name, we are grateful to them for their time and help. Their cooperation made this project possible.

Our Advisory Board, composed of researchers and court officials, met with us regularly, carefully reviewed our drafts and provided many helpful suggestions for increasing their utility. The representatives of the three court membership organizations—the Conference of State Trial Judges, the National Association for Court Administration and the National Association of Trial Court Administrators—helped prepare the project's survey and distribute it to their organizational memberships. They maintained an exchange of information about project activities and data needs with their members, and thereby, greatly expanded our information base and the range of courts and court activities incorporated into the reports.

The consultants who worked with us gave far more help and guidance than any compensation they received. In addition to providing their expertise on selected issues, many freely offered their assistance in reviewing our drafts and providing suggestions for their improvement. The extensive knowledge of L. M. Jacobs (collective bargaining); Mark Koenig (records management); Lawrence Siegel (space planning); Frank Zolin (budgetary strategies); Hon. Henry Pennington and Diane Morris (trial court management improvement programs) were essential to developing this report series and were directly incorporated into the project reports.

Several trial court staff followed up our site visits by subsequently meeting with us to critique our analyses and test our draft reports against management activities in their respective jurisdictions. These individuals were: Gordon Allison, Michael Hall, Robert Harrall, Dennis Howard, Charles Starrett, Frank Zolin and Norman Zoller. Several

FIGURE 1. Two Principal Money Flows in Courts



immediately distributed to state and local governments; and pass-through funds, such as alimony and support payments made through the court. These six money flows determine the types of management systems required by trial courts.

b. *The basic trial court financial systems.* Each of the six basic money flows in a typical trial court has unique characteristics. Some of these characteristics are the result of special legal requirements, such as those imposed on fiduciary accounting, budgeting and federal

TABLE 2. Financial Management Systems by Type of Money Flow

Type of Money Flow	Sources	Relevant Financial Systems	Ultimate Distributee
General Fund Appropriation	State, county or city appropriation.	Budget process, expenditure accounting contracting; purchasing payroll inventory.	Contractors, vendors, lessors; court personnel; jurors, witnesses, appointed counsel.
Grant/Revenue-Sharing	Federal funds (e.g., LEAA, DOT, HEW, etc.).	Federal applications and grant management procedure; adherence to local procedures for obtaining revenue-sharing funds.	Personnel, contractors, vendors, lessors, possibly appointed counsel.
Special Fund	State or local funds earmarked for court purposes (e.g., judicial library funds, indigent defense funds).	Arises independently of budget process, but expenditure should pass-through governmental accounting process, which normally includes special fund accounting.	Determined to large extent by legal constraints on the fund.
Costs, Fines, Fees	Paid in by defendants, litigants and users of court services.	Cash accounting, revenue accounting, checking and depositing, time-payment systems.	Normally state, county and city governments receive these funds pursuant to statutory prescription.
Trusts	Paid in usually by court order to be held for benefit of an individual, organization or group.	Fiduciary accounting, investment procedure.	Beneficiary.
Pass-through	Paid in by litigants or defendants by court order for relatively quick distribution to individuals.	Basic cash accounting, except that individual ledgers may have to be maintained; might also include cash flow analysis and possible interest benefits from deposits.	Cash bail: returned to defendant (perhaps minus costs). Alimony-Support: wives, children. Judgment: holder of judgment. Restitution: victim. Condemnation: property owner.

grants management. Mainly, however, the money flows differ because of two factors, which are:

- the type of funds being handled; and
- the ultimate recipient of the funds.

Due to these special characteristics, each type of money flow requires a different set of management systems, as reflected in Table 2.

The systems listed in Table 2 are supportive of court financial management, but are not necessarily under court control. In fact, many of these financial systems are under executive branch control. Typical of the management roles played by executive branch agencies in courts are the following:

- prescription of budget procedures;
- review of court budget;
- presentation of the court budget as part of the executive branch budget;
- handling expenditure or fund accounting for courts and providing periodic reports of expenditures in relation to budgeted amounts;
- handling the bidding and acquisition procedures for court purchases;
- handling the legal aspects of contract negotiation for

purchase of goods and services by court;

- inclusion of court employees in executive branch payroll;
- check disbursements for courts;
- inclusion of court property in general inventory system;
- sometimes acting as a conduit for federal grants to courts and providing grant accounting;
- sometimes handling cash accounting procedures, with courts simply transmitting cash as it is received;
- occasionally setting up and operating time payment systems for courts where defendants are permitted to pay fines and costs in installments; and
- very occasionally handling fiduciary accounting and investments for funds paid into court.

In addition to the management roles listed above, the executive branch in some jurisdictions has been responsible for the introduction of relatively sophisticated budget processes, such as a Planning, Programming and Budgeting System (PPBS), a Performance Measurement System (PMS), Management by Objective System (MBO) or Zero Base Budgeting (ZBB). Where a trial court is located in a jurisdiction where one of these budgeting systems is used, trial court management must be adapted to the system.

II. ASSESSING THE SCOPE AND EFFECTIVENESS OF FINANCIAL MANAGEMENT IN A TRIAL COURT

A. Scope and Purposes of Self-assessment

There is a broad range of basic financial management functions which could be performed in trial courts. These functions, considered in the aggregate, constitute the framework of a financial management system for trial courts. Such a framework would encompass:

General management and organizational considerations:

- organization and support of financial management;
- financial management information; and
- overall financial management policy.

Budgeting and grants:

- budget development;
- external budget relations;
- capital budgeting; and
- federal grants.

Expenditure control:

- fund accounting systems;
- pre-audit;
- payroll;
- disbursement and vouchering;
- purchasing of goods and services; and
- monitoring expenditures.

Cash accounting:

- collection of monies due court;
- receipt and deposit of money;
- employee supervision and auditing;
- fund distribution;
- recording transactions; and
- generation of revenue reports and cash accounting reports.

In actual practice, some of the above functions are unnecessary in particular jurisdictions. Other functions may best be left to executive branch agencies. Even though a trial court may not have, nor need to have, a completely self-contained and comprehensive financial management system, it nonetheless is important that trial court managers assess the financial management needs of the court to ascertain if:

- some financial management function is being omitted or performed incompletely;
- some financial management functions being per-

formed by the executive branch should be placed under court control; and

- some financial management functions being performed by the court could be expanded or better controlled.

To perform a self-assessment, it is necessary to have some comparative model which lists assessment criteria in the area of financial management. To facilitate this process, there follows a description of each major area of court financial management and a series of self-assessment questions.

B. Self-assessment factors

1. General management and organizational considerations.

a. Organization and support of court financial management.

Description of assessment area. This area of self-assessment addresses the structure of court financial management, the legal authority of the court to manage and the allocation of resources to support court financial management.

The essential weakness of court financial management is lack of management authority and structure. Even where requisite authority exists, it may not be exercised completely, nor translated into a management organization structure supported by adequate resources. These basic legal and organizational factors are a primary area of assessment.

Assessment factors:

- Does the court have the specific legal authority to manage its finances? If not, are there any legal barriers to the court's exercise of financial management authority through inherent powers?
- Does the judiciary formally and substantially involve itself in making financial policy decisions for the court?
- Is there a judge or court official with overall control of all aspects of court financial management performed within the court? Does this judge or official have and exercise supervision of financial management functions performed by external agencies for the courts?

- Does this judge or court official have the authority to integrate related financial systems? If so, has such integration occurred?
- Is this judge or court official supported by personnel performing financial management functions? Is there a definable financial management structure?
- How many court employees are engaged full-time or part-time in financial management functions (e.g., budgeting, accounting, financial reporting, purchasing, payroll, federal grant management)? Are the personnel time (person-months) and the qualifications of the personnel devoted to budgeting commensurate with the size of the court's budget? Are the personnel time and qualifications of the personnel devoted to cash accounting and auditing commensurate with the dollar flow in the court?
- Is there adequate financial management equipment to support court financial management (e.g., calculators, cash registers, safes, business machines and books of account)?

b. Financial management information.

Description of assessment area. This area of self-assessment addresses the systems which generate financial management information.

Financial management information can be produced by manual systems in smaller courts, but in trial courts of any size some use of electronic data processing is almost essential to effective management. Most courts will find it advisable to use executive branch computers, but it is still possible to exercise some control over the data coding, programming and reports which have particular relevance to trial courts. The manner in which a trial court handles EDP is a fairly good indicator of the level of management control in the court.

Assessment factors:

- To what extent is electronic data processing being used for financial management purposes, that is: expenditure accounting, cash accounting, inventory, federal grant accounting and fiduciary accounting?
- To what extent does the court control its computer applications (e.g., control of computer center, control over court-specific computer programs, control over coding of data items unique to courts or control over generation of court-specific reports)?
- Does the court receive timely reports on any or all of the following:

Expenditures and encumbrances in relation to appropriations by month, allotment period and year-to-date.

Year-end reports of actual expenditures in relation to budget estimates.

Special reports on expenditures in volatile areas,

such as juror costs, appointed counsel costs, witness costs.

Status of federal grants.

Revenues received in relation to estimates?

- Does the court ever request and receive special management analyses, such as savings from unfilled positions or expenditure patterns in a particular part of the court?
- Does a court official actually make decisions based on the reports received, for example, the budget for the next year?
- Are the financial systems integrated in any or all of the following ways:

One computer installation handling all automated subsystems for the courts.

Similar coding for common data elements in each subsystem.

Simultaneous entry of data inputs affecting two or more subsystems?

- Are there linkages between any of the following systems:

Purchasing and contracting on the one hand and expenditure accounting on the other.

Personnel system transactions and payroll.

Equipment purchasing and inventory?

c. Overall financial management policy.

Description of assessment area: This area of self-assessment addresses the role of the trial court judiciary and court managers in determining the basic financial strategy of the court and the posture of the court *viz-a-viz* external agencies.

Financial strategy transcends budgeting and encompasses considerations of all sources of funds available to the courts. It also involves relating resources to objectives and projecting these past the current budget year. Developing this sense of direction equips a trial court to deal effectively with external agencies in obtaining adequate resources and supporting services.

Assessment factors:

- Does the court have a set of objectives and priorities on which it bases resource allocation decisions?
- Does the court project its financial needs and revenues over a multi-year period?
- Does the court consider all possible financial resources to meet its objectives, or does it simply rely on general fund appropriations?
- Has the court reviewed its relationships with the executive branch in each major area of court financial management to determine:

If the court has adequate management control.

If court needs are being met in those areas where the executive branch provides service?

- Has the court, in fact, attempted to change its relationship with the other branches?
- Does the court have a strong policy position on the court's independence from externally-imposed budget limits or freezes?

2. Budgeting and grants.

a. Budget development.

Description of assessment area. This area of self-assessment addresses the procedures involved in developing the operating budget (or budgets) for court operations (i.e., the court's control of budgeting).

Preparation may be entirely centralized or may be based on a formal budget call to various court components. Some trial courts are so administratively fragmented that multiple budgets are prepared in the same court. This can be offset by review and modification at a central point or at least by consolidated transmission with comment. Ideally, a proposed budget for the court is subject to some structured review by the top court official, followed by a sign-off.

By law or by administrative regulation, it is essential that budgetary responsibility be fixed. This is another benchmark of budgetary control.

A final benchmark of control is whether budgeting is used for internal management control rather than as a routine compliance with executive branch requirements.

Assessment factors:

- Does the court exercise either one of the following forms of budget control:

One budget covers all aspects of court operation, including the clerk, and is either centrally prepared by a budget officer under direct judicial control or prepared at the division level and submitted to a court officer for review before inclusion in the court budget.

Separate budgets are prepared on behalf of various trial court components, but all are submitted to the trial court judiciary for review and revision prior to submission?

- Is one high-ranking court official charged with responsibility for reviewing all budgetary items affecting court operations?
- Is there a formal review and sign-off procedure?
- Does the court add its own management requirements to the executive branch budget process?
- Is the court budget process used for purposes of reviewing performance, workload burdens and testing budgetary requests?
- Are the budgetary preparation and review roles of presiding judges, other judges, clerks and other administrators defined clearly?

b. External budget relations.

Description of assessment area. This area of self-

assessment addresses those facets of budgeting relating to the court's submission of its budget to external agencies and the court's success in dealing with such agencies.

The criteria for assessing budgetary relations with external agencies relate to one of the following:

- compliance with externally imposed procedures;
- advocacy, both informal and formal;
- ability to estimate and obtain resources; and
- freedom to allocate budget funds as needed.

Assessment factors:

- Do budget submissions on behalf of the court regularly meet externally imposed requirements of form and content, or are they frequently criticized for their defects in preparation?
- Does the court have an informal ongoing dialogue with the budget office that reviews the court budget? Are budgetary problems generally resolved in advance of the formal budget process?
- Do court officials have the opportunity to make a real substantive presentation of court needs to those officials who shape the budget prior to its presentations to the appropriating body? If so, is the opportunity used?
- Are court officials able to make direct presentations to the appropriating body? If not, is the court adequately represented by the chief executive officer (where the court budget is presented as part of the executive budget) or by the chief justice or state court administrator (where the trial courts are state-funded)?
- Is the court successful in accurately estimating budget needs and obtaining required funds, as measured by:

Percentage of appropriations received in relation to requests (inapplicable in jurisdictions where budgetary gamesmanship requires high requests and big cuts).

Appropriations in relation to trial courts of comparable jurisdiction, population and workload. Appropriation increase trends in relation to other agencies funded by the same government. Appropriation increase trends in relation to the standard inflation rate and built-in personnel increases.

Demonstrated ability to obtain funds for incremental items or new programs?

- Does the court have authority to freely allocate budget funds without line item restrictions? If not, is the power of transfer routinely granted?

c. Capital budgeting.

Description of assessment area. This area of self-assessment addresses those phases of budgeting which relate to major capital items, in particular facility con-

struction and renovation.

Capital budgeting could encompass courthouse construction, although such facilities normally include non-court agencies and cannot necessarily be treated as a capital expenditure by courts. However, development of outlying court facilities and renovations of existing court facilities are very court-specific capital expenditures. Major fixtures and large-scale equipment for courts may also fall in the capital category. Funding of such items requires more budget sophistication than does routine operational budgeting.

Assessment factors:

- Does the court budget for facility construction and renovation?
- Is there a plan for facility improvement on which capital budgeting is based?
- Is capital budgeting related to operational budgeting in the sense that the impact of capital budgeting is estimated (e.g., staff and maintenance cost for new facilities)?
- Does the court have access to capital funding sources other than normal general fund appropriations, specifically bond money, revenue-sharing funds, funds earmarked generally for court purposes or funds earmarked generally for public works?

d. Federal grants.

Description of assessment area. This area of self-assessment addresses the solicitation and management of federal grants. It is an area of management particularly relevant to those few trial courts which receive, or could reasonably expect to receive, federal funding.

Assessment factors:

- Has the court attempted to obtain federal grants?
- Have the applications been prepared within the court?
- Has the court enjoyed success in obtaining grants?
- Does the court have its own grant management process?
- Do court officials receive and review reports on expenditures against federal grant budgets?
- Has the trial court had auditing or compliance problems in connection with federal grants?

3. Expenditure control.

a. Fund accounting systems.

Description of assessment area. This area of self-assessment concerns accounting procedures for appropriated funds. Primarily, it covers accounting for general fund appropriations of state and local government, but it may also include federal grant accounting or special fund accounting.

Fund accounting is basic to court management. The problem for many trial courts is that they are serviced by executive branch systems which do not meet the management needs of the court.

In these situations, a trial court may maintain expenditure records as a backup or may not have any internal recording. Few trial courts will have a full-blown accounting system subject to audit. Even where a trial court has its own accounting system, the format and chart of accounts may be externally prescribed and may not be particularly germane to courts.

Assessment factors:

- Does the court have an internal fund accounting system or does it rely primarily on external agencies? If the system is internal, does the court have the personnel to maintain it? If the system is external, does the court maintain a back-up system as a means of cross-checking the external system?
- Does the system (whether external or internal) have any or all of the following features:

Coverage of all funds from which courts make expenditures (e.g., expenditures from general fund appropriations, expenditures from special funds and expenditures of federal funds).

A system of encumbrances so that formal obligations are noted in the books of account.

Relevance of chart of account categories for court management purposes.

Currency of data.

Frequent reports on status of accounts using current data as the basis for the reports.

Use of reports for pre-audit.

Use of data for monitoring expenditures.

Use of reports for budget preparation or defense.

Generation of occasional or regular reports unique to the trial court?

b. Pre-audit.

Description of assessment area. This area of self-assessment addresses approval or disapproval of a proposed acquisition of goods or services. This requires a system for advanced approval of expenditure requests (pre-audit).

Pre-audit is a basic criterion of management control. Its mere existence is not enough. It must be broad enough to cover any major expenditure which is discretionary. This might include filling personnel vacancies.

Assessment factors:

- Does one court official have authority to disapprove expenditures chargeable to the court budget(s), or is this authority divided?
- If this authority exists, is it exercised in some systematic way?
- Does it exclude any major items of expenditures below a certain dollar value?
- Is there a formal policy which describes the criteria by which expenditure requests will be judged?

c. Payroll

Description of assessment area. This area of self-assessment involves validation and preparation of the payroll for court employees.

Control of payroll procedures is not essential. More significant is the linkage of payroll information with other management systems, such as personnel records.

Assessment factors:

- Is there a single court payroll including all court employees or separate payrolls for various court components?
- Are payrolls prepared within the court, prepared elsewhere and sent to the court for validation or totally handled outside the trial court?
- Are checks distributed directly by the executive branch, by a state court administrator or by the trial court?
- Does the court maintain a personnel information system, and is this linked to payroll preparation for purposes of reflecting changes in job status or pay?

d. Disbursement and vouchering

Description of assessment area. This area of self-assessment involves control of checking accounts, check-writing procedures and vouchering of checks to ensure proper accounting entries.

This is a standard area of financial management in terms of procedures. The key factor is the extent to which court officials control the process and relate it to the overall management of the court. A significant management decision is choosing the depository. If a court official makes this choice, it indicates control.

Assessment factors:

- Does the trial court have its own checking account(s)?
- Is the bank of deposit chosen by a trial court official? If so, are there legal or administrative procedures governing the choice?
- If there are such administrative procedures, are they made by trial court officials?
- Is the person with authorized control over the account(s) the same person who has the principal administrative responsibility for trial court management or the designee of the person with principal administrative responsibility?
- Are all disbursements subject to approval by a trial court official with particular responsibility for this area of management?
- Are all disbursements by check?
- Is the approval responsibility divided or unclear?
- Are there definite disbursement control procedures? If so, are the procedures made by court officials, or are they externally made?
- Is the timing of disbursements related to cash flow considerations and accumulation of interest?

- Is there a vouchering system built into the disbursement procedure?

- Is there a check ledger and/or disbursement journal linked to a central accounting system?

e. Purchasing of goods and services

Description of assessment area. This area of self-assessment involves systems to control acquisition of products, leasing, contractor services and public utility services. It involves purchasing and bidding procedures, contractor selection and contract negotiation, inventory control (possibly warehousing) and use of revolving funds for minor purchases. It may also include encumbrance accounting (i.e., recording commitments which are not yet ascertained liabilities).

Principal purposes of these various subsystems are to see that public money is well spent, that the best prices are obtained, that the best products and contractors are obtained and that the terms of contracts are observed. Even where the court does not control the management systems related to acquisition of goods and services, it is nonetheless the management responsibility of the court to see that the above purposes are achieved.

Assessment factors:

- Is there a competitive bidding procedure for the purchase of goods and services for the court?
- Is it systematized?
- Are trial court officials in charge of setting bid specifications, evaluating bid responses, choosing vendors or contractors?
- Is there a central purchasing system in which the trial court participates?
- Is it a judicial branch system?
- Does the court have an inventory of property? If so, is it linked to a purchasing system?
- Is there a system of inventory control?
- Do trial court officials determine the scope of work and payment provisions of contracts for goods or services?
- Are contracts negotiated?
- If so, are trial court officials in charge of the negotiations?
- Does contract management authority reside in a court official and is it exercised in a systematic way (i.e., monitoring, review and sign-off prior to payment)?

f. Monitoring procedures

Description of assessment area. This area of self-assessment is closely related to the budgetary process and can be viewed as budgetary monitoring. A benchmark of whether budgetary management exists is the operation of a monitoring system.

This aspect of financial control involves monitoring and review of past expenditures to ascertain areas where special management control can reduce future expendi-

tures. It has particular applicability to those items of expense which are volatile or open ended (e.g., indigent defense costs).

Assessment factors:

- Does a trial court official make a periodic and systematic review of all court expenditures?
- Have there, in fact, been problems of expenditure overruns?
- Is there special monitoring of those expenses which tend to be open ended, in particular, costs of juries, witnesses, medical examinations, indigent defense costs, etc.?
- Have management procedures been instituted to control open ended expenditures or any other areas of expenditure where problems have occurred?
- Has job vacancy control been used to manage personnel costs?

4. Cash accounting

a. Collection of monies due court.

Description of assessment area. This area of self-assessment involves the establishment of management procedures to ensure that there is a system for collecting and receiving money which must be paid into the court pursuant to state law or by court judgment.

Some fees and costs must be paid as a prerequisite to court services (e.g., filing fees). Others are paid at the time of judgment (e.g., criminal court costs). Problems arise when payments are deferred or there are unusual costs or fees not commonly assessed (e.g., various clerical fees for miscellaneous case-related services). Fee structures may be anachronistic, but must be enforced.

Many courts rely on probation departments to collect deferred payments of fines and costs. Many courts rely on recipients of court-ordered payments to complain if they do not receive payments. However, the real responsibility for arrearage should be that of a financial office answerable to the judiciary.

Assessment factors:

- Have there been frequent errors or omissions in collecting fees and costs?
- Are clerical personnel well-versed and well-instructed in the statutory fees and costs?
- Are checks made to determine the completeness and accuracy of collections?
- Do judges frequently remit costs in ways which complicate the administration of collection?
- Is there a system for enforcing court orders or judgments which require that money be paid into the court for transmission to an individual or organization?
- If the court permits installment payments on fines, costs and fees, is there a formal accounting system to record payments and to detect non-payment?
- Is there a system for recording pass-through pay-

ments, such as support, and detecting those persons who are in arrears?

- Does the court accept checks in payment, and if so, is there a system for following up on bad checks?

b. Receipt and deposit of money.

Description of assessment area. This area of self-assessment involves the procedures of acknowledging receipt of money, recording the receipt and depositing the money. This typically includes:

- receipt issuance (perhaps a cash register receipt with the machine tape being a computer input);
- recording of the receipt in case it is case-related;
- aggregation with other monies for deposit; and
- deposit (perhaps with cash register tape reconciliation).

Money intake is subject to standardized procedures used in any organization receiving cash. The distinguishing factors in courts are the relationship of receipts to case records and fairly quick redistribution.

The key is control, which means focusing cash intake on a few points, frequent collection and deposit and special accounting for cash receipts which do not fit the normal pattern (for example, cash bail). In a cash bail system the money must be held for return, perhaps with court costs deducted.

Assessment factors:

- Does the court have the standard elements of a cash accounting system?
- Is cash collected and deposited on at least a daily basis?
- Are there a limited number of cash intake points?
- Is cash bail accepted in locations outside the court and not under court control (e.g., a jail or sheriff's office)?
- Are there daily cash reconciliations?

c. Employee supervision and auditing.

Description of assessment area. This area of self-assessment involves the procedures necessary to protect the court against occasional instances of employee incompetence or dishonesty in the handling of money received by the court.

Audit and control devices should not necessarily be seen in the light of dishonesty. Much more commonly, an audit serves an educational purpose by detecting failure to observe procedures and pointing this out to the appropriate individuals.

Assessment factors:

- Are employees handling money under bond?
- Are there procedure manuals for employees, and do they receive instructions?
- Are cash registers used, and do these registers have codes for individual operators?
- Is there an internal audit system?

- Are audits conducted with great frequency?
- Do individuals: employees have their own cash drawers so that they can be individually audited?

d. Fund distribution.

Description of assessment area. This area of self-assessment involves the distribution of fines, costs and fees to various government funds (e.g., the state treasury, county treasuries, municipal treasuries, driver education funds, various retirement funds, game commission funds, indigent defense funds, etc.). It also involves the distribution of funds paid into court for the benefit of individuals or checks passed on without going through a court account for interim deposit or investment.

Most problems in this area relate to the accuracy and timeliness of distributions, particularly those to individuals.

The type of accounts in which courts hold money, or the type of investments a court may make with money paid into its care, is governed by state law. Investment is naturally influenced by the cycle of redistribution, such as:

- trust accounts, or accounts where money is paid into court to be held for a prolonged period (e.g., condemnation awards where the amount is contested);
- periodic payments (e.g., support payments passing through courts);
- quick turnaround payments, usually one-shot (e.g., cash bail); or
- simple conduit (court passes on a check after recording compliance in court records).

Occasionally, state law may inhibit obtaining interest (for example, an insistence that funds drawn down from the state be in a checking account).

Assessment factors:

- Are there problems in the accuracy of disbursements, both the amount and the name/address of the recipient?
- Are distributions to individuals timely or long-delayed?
- Have there been problems in the accuracy and completeness of remissions to government bodies?
- Are funds held in interest-bearing accounts or short-term securities?
- Are remissions made with some consideration of how cash flow benefits the court or the government?
- Does the court maintain special accounts for funds paid into the court to be held over a prolonged period?

e. Generation of revenue reports and cash accounting reports.

Description of assessment area. This area of self-assessment involves reports of two types:

- those of a routine accounting nature; and
- those of a management nature.

The key question is not the form of reports received, but whether financial managers do in fact oversee the cash accounting process or the revenue collection process.

Assessment factors:

- Does the system regularly produce reconciliation statements that indicate problems of balance and possible errors?
- Does the system provide reports on expenditures from revolving fund accounts (e.g., petty cash)?
- Are there revolving fund reports linked to requests for fund reimbursement?
- Does the system generate reports on receipts and checks issued?
- Does the system produce management reports, such as those below:

Trends in revenue collected by type of revenue, comparisons to revenue projections and comparisons to past year collections.

Average funds in banks; interest received.

Cash flow analysis; daily turnaround.

f. Recording transactions.

Description of assessment area. This area of self-assessment involves the system for recording the cash flow through the court.

Bookkeeping practices in courts are often not very advanced and exist almost entirely for auditing purposes. They often provide no means of internal balancing or report generation. Accrual basis accounting is not popular in courts nor is full-scale accrual accounting particularly appropriate in a system where collection of case costs may follow the filing of a case by several years. Modified accrual accounting may, however, be appropriate.

Assessment factors:

- Does the court maintain a general ledger, double entry system of books?
- Does the court keep its books on a modified accrual basis?
- Is the general ledger supported by a system of sub-ledgers for each individual paying money into the courts?
- Does the chart of accounts reflect each major revenue source and each major point of distribution?

C. Use of Self-assessment

Self-assessment is not an end in itself. It is a means of identifying weaknesses or omissions and addressing them.

A general weakness, one common to most trial courts, is a tendency to reduce court financial management to budgeting and to ignore those aspects of court financial management performed by clerks or executive branch agencies. This very attitude militates against any comprehensive view of court financial management and makes self-assessment fairly fruitless. Thus, the foremost

purpose of self-assessment is to establish a broader sense of responsibility for the performance of all financial functions affecting trial courts.

A serious assessment of each aspect of court financial management, even in the fairly cursory form suggested in the preceding section, requires an initial identification of which court or non-court agency performs each general function noted. This process of initial identification will reveal one of the following four situations:

- the function is not being performed;
- it is being performed under the direct administrative control of the court;
- it is being performed by a court-related local agency under indirect administrative control of the court (e.g., an elected clerk); or
- it is being performed by an executive branch agency of state or local government, a state court administrator or, in rare instances, a legislative branch agency (e.g., some types of auditing).

Each of the above situations suggests a different pattern of action. Where a financial management function is not

being performed, it is necessary to ascertain whether sound management requires its performance, and, if so, what agency should be required to fill the void. Where a function is currently being performed, it is necessary to assess the quality and comprehensiveness of performance and, if defects are noted, to indicate ameliorative steps or possible transfer of the function. An assessment of financial management should lead to an action plan with the following elements:

- a list of new functions to be performed and the responsible administrative agency; and
- a list of functions being performed incompletely or less than adequately with an indication of:

The nature of the defect.

How it affects court operations.

Whether it requires more detailed analysis.

What course of action should be taken.

Which functions should be considered for transfer from or to court control and why.

The above process, however simply done, would be a new and important undertaking in most trial courts.

III. TRIAL COURT BUDGETING

A. Overview of Trial Court Budgeting

1. **Treating trial court budgeting as a comprehensive process.** The financial management issues raised by court officials surveyed or interviewed in connection with this booklet have, with few exceptions, related to budgeting. Among the concerns noted by trial court officials were techniques of budgetary presentation, use of budgeting for internal management control, budgeting for highly variable cost items, organizing a budgetary process and a variety of related problems. This chapter addresses these practical concerns.

Rather than treating these issues discretely, this chapter deals with them as part of the trial court budgetary process. This schematic approach is based on the premise that the budgetary process is a coherent whole and should be treated as such.

No attempt is made to deal with budgetary strategies internal to a court, such as the way a trial court administrator or clerk deals with the judiciary or *vice versa*. The emphasis is upon the overall process by which a trial court formulates and presents its budget and later monitors it. The treatment of the trial court budgetary process is organized as follows:

- Trial Court Budgetary Guidelines (Section B);
- Review of Budget Submissions (Section C);
- Financial Policy and Strategy (Section D);
- Budgetary Presentation (Section E); and
- Budgetary Monitoring (Section F).

2. **Characteristics of trial court budgeting.** Trial court budgeting has a number of characteristics:

- it is a political process in the sense that it involves a complex set of intergovernmental relationships and resolves a number of policy and priority issues;
- it is an adversary process in the sense that it involves some tension between those seeking and justifying budget resources and those determining the allocation of budget resources;
- it is a cooperative process in the sense that it requires a good set of ongoing informal relationships within a trial court and between representatives of a trial court and external agencies;
- it is an educational process in the sense that it provides an opportunity to explain trial court operations and needs to external agencies; and
- it is a managerial process in the sense that it is an

instrument of internal accountability and control and an adjunct of planning.

The political and interpersonal aspects of budgeting are of supreme importance. The prestige of a presiding judge and the friendly ongoing dialogue between a court administrator and a county budget office may outweigh in importance the procedural and managerial aspects of budgeting. Unfortunately, it is not particularly useful to catalog these political or interpersonal techniques, since they tend to be matters of local judgment dependent on factors that are seldom universal.

However, budgeting is not just a political art form. It is a managerial process that provides internal control and supports decision-making. It is a structured means of obtaining and allocating resources and of managing an organization. Trial courts have not generally viewed budgeting in this broad management sense and have seen budgeting as a routine compliance with externally imposed budget procedures. In short, trial courts have seen little need to build upon the executive branch budget for the achievement of managerial needs unique to the judiciary. Yet, there is a need for a trial court budgetary

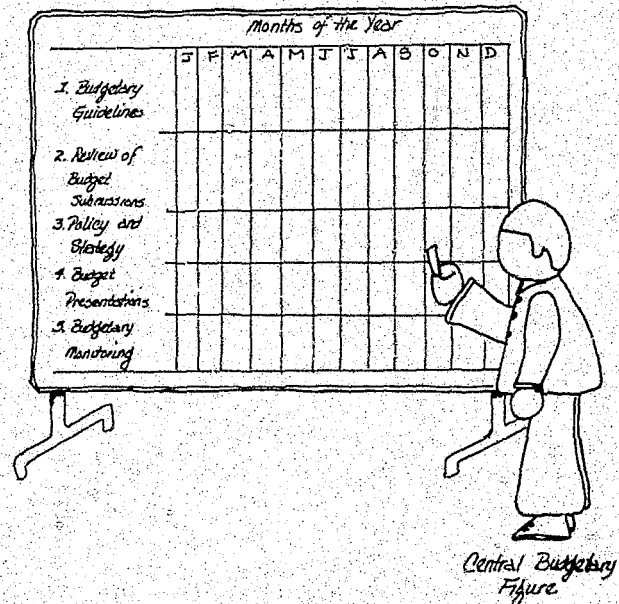


Illustration 2: Trial Court Budgeting is an On-Going Process

process which deals with those aspects of budgeting unique to the needs of the judicial branch and which cannot be well-served by the executive branch process. There are at least five areas of budgeting which may require specialized internal treatment because they involve policy decisions on behalf of the court or involve the management relationships between trial court leaders and trial court divisions, specifically:

- imposing court priorities and policies upon court budget formulation;
- budget review procedures to strengthen management control over court operations and to test justifications for budget requests;
- development of an overall court financial strategy which includes resources other than general fund appropriations;
- determining how to deal with external agencies in obtaining financial resources; and
- monitoring expenditures in relation to appropriations.

Each of the above aspects of budgeting encompasses several elements. These elements, as depicted in Table 3, constitute the ingredients of a trial court budget process:

TABLE 3. *Basic Procedures in a Judicial Budgetary Process*

Type of Procedure	Possible Procedural Steps
Developing an Internal Budgetary Policy	Formulating and promulgating special budgetary requirements for court divisions. Developing and promulgating budget priorities for the court.
Review of Budget Submissions	Identifying key budget issues facing the court. Analyzing budget submissions to determine: <ul style="list-style-type: none"> • justification for budget requests in the light of performance; • justification for increases; and • the substantive and procedural adequacy of budget.
Development of a Financial Strategy	Resolving budgetary policy issues. Formulating a strategy for funding courts, including funds from sources other than the operating budget.
Budgetary Presentation	Determining the general tactics of presentation. Determining the presentations of specific budgetary items (e.g., jury costs, capital expenditures, etc.).
Budgetary Monitoring	Instituting monitoring systems. Monitoring expenditures.

The above aspects of budgeting are not discrete, but are linked in an overall process. In larger courts, this process would require a number of supporting staff activities. The sequential relationships and staff roles in a trial court budgeting process are depicted in Figure 2.

Figure 2, by necessity, deals with trial court budgeting in very general terms. It does, however, indicate the complexity of staff roles in a court with large internal divisions or a central budget office. In a small and organizationally simple court, no staff may be required at all. The following section indicates the great variety in judicial and staff roles as the result of organizational and administrative differences between trial courts.

3. Organization and administration of a trial court budgetary process. A trial court budgetary process depends upon the existence of some central administrative authority invested with control over budgets submitted on behalf of the court. Due to differences in organization and administration of trial courts, the nature and extent of this authority varies greatly from court-to-court.

The organizational and administrative variables which most affect trial court budgeting are:

- the degree of state funding;
- the powers of the presiding judge;
- the existence of a central budget office; and
- the organizational structure of the court.

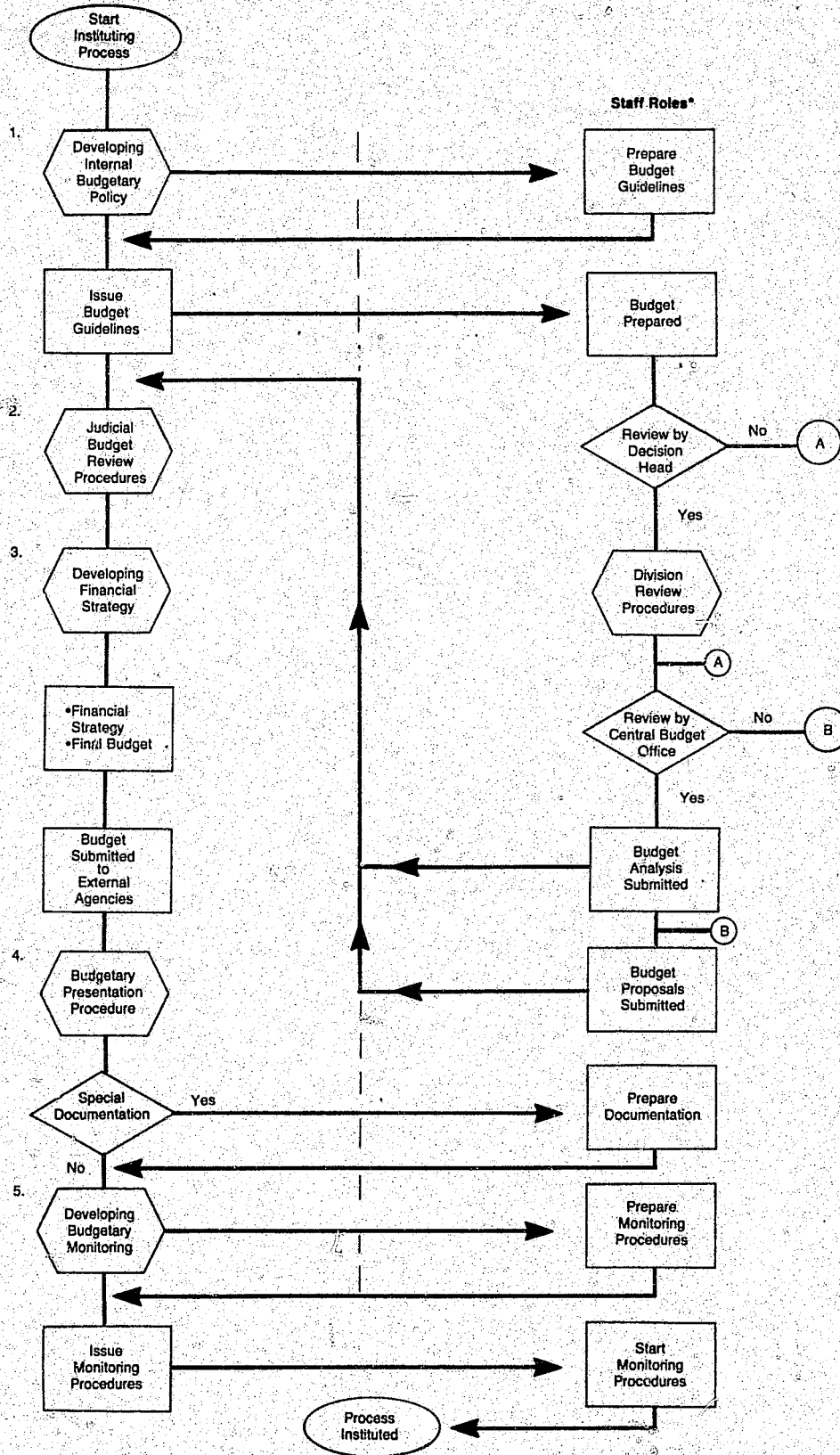
a. *Degree of state funding.* Most general jurisdiction trial courts receive state funding. Where the level of state funding is high, trial court budgeting necessarily becomes state-oriented.¹²

In states where trial courts are wholly or significantly state-funded, budgetary processes are dictated from the state level. Trial courts are excluded from the local government process and become subject to the budget procedures of the state executive branch and also the budget procedures imposed by the state supreme court acting through the state court administrator. Absorption into a statewide budgetary process necessarily diminishes the managerial autonomy of local courts, although the extent of this diminution varies from state-to-state.

The impact of state funding on the budgetary au-

¹²In the following states trial courts are wholly or largely state-funded or are about to undertake state funding: Alaska, Alabama, Connecticut, Delaware, Hawaii, Kansas (1/1/79, court personnel), Kentucky, Maine, Maryland (district courts, circuit judges), Massachusetts, Missouri (circuit court personnel 7/1/81) Nebraska (county courts, district judges), Nevada (probably 1979 session), New Mexico, New York (12.5% per year increments), North Carolina, North Dakota (probably 1979 session), Oklahoma (wide use of court revenues to support courts), Oregon (probably 1979 session), Rhode Island, South Dakota, Vermont, Virginia (district court and supreme court) and West Virginia (except clerks' offices). Data supplied by Harry O. Lawson.

FIGURE 2. Steps in a Budgetary Process



*Particularly applicable in a large court, much less so in a small court.

tonomy of trial courts makes itself felt in most areas of trial court budgeting: budget procedures are dictated by the state court administrator; budgetary strategy is also largely determined at the state level, although a trial court may devise its own strategy for dealing with a state court administrator; budgetary presentation is also handled at the state level of the judiciary; and even budgetary monitoring and control may be centered in the office of the state court administrator.¹³

b. *Powers of a presiding judge.* A trial court budgetary process normally culminates in a series of budgetary decisions by a presiding judge. Where the presiding judge speaks for the trial court in budgetary matters, the budget process tends to be simpler and more efficient than it is in a system where budgetary authority is diffused among trial judges. The administrative power of a presiding judge is therefore an important variable.

The powers of a presiding judge may be such that all budget decisions are effectively his, even though he may act through a court administrator or consult with his fellow judges. More commonly, the presiding judge shares budgetary power with the full court or some committee of the court and operates in a collegial environment. In some courts, the presiding judge has very limited authority in budgetary matters, since various judges, clerks or administrators control different parts of the court budget and are subjected to limited central control.

c. *Central budget office.* There are four basic levels of administrative authority over budgeting:

- *Centralized budget preparation.* Each court component submits needs to a central official who puts together a budget for all trial court components.
- *Centralized budget review.* Major court components prepare their own budgets, but do so in conjunction with an administrator who will ultimately review them and pass them on to the judiciary.
- *Partially decentralized budgeting.* There is no central budget office, but budgeting is centered in a few major court divisions which deal directly with the judiciary. Thus, in some jurisdictions there may be budgets submitted to the court by a clerk and by a court administrator. Budgeting in such a court is relatively centralized, although not subject to central staff analysis.
- *Decentralized.* In a totally decentralized budget process, various court divisions present their budget

¹³In Colorado, trial courts make expenditures against local imprest funds for operational expenses, but not personnel or capital expenditures. In other state-funded systems (e.g., Maine and South Dakota), expenditures are centrally controlled.

needs directly to the judiciary without intervening staff analysis. Some court components may even bypass the judiciary altogether.

Trial courts need to have some sort of a staff conduit between the various court components and the judiciary. This relieves the judiciary of the duty of negotiating budgets with several different administrators and provides them with some analysis on which to base their budget decisions.¹⁴

Theoretically, trial court administrators serve this purpose. In practice, many have budgetary responsibility for only certain aspects of trial court operation, so that they may be special pleaders rather than budgetary overseers. The lack of a budgetary overseer can greatly inhibit a trial court budgetary process.

d. *Organizational structure of the court.* Court organizational structure affects budgeting in a variety of ways. Where each major component of a trial court is relatively autonomous, budgeting tends to be decentralized and subject to very limited review by the judiciary. Where the trial courts are unified on a statewide basis, or where presiding judges exercise strong control, budgeting tends to be more tightly centralized.

Most courts lie somewhere between the extremes of total unification at the state level and an anarchic, *laissez-faire* type of budgeting. No ideal budgeting model exists. Budgeting must be accommodated to organizational structure. Table 4 describes some of the principal models of trial court budgeting.

B. Trial Court Budgetary Guidelines

Budget guidelines for a trial court are administrative directives that reflect the internal budget policy of the court. They constitute a judicial branch supplement to the budgetary procedures established by the executive branch.

A court budget guideline could address any or all of the following subjects:

- timing of steps in the court's own review process;
- priorities and money constraints imposed by the court itself;
- program or performance budgeting procedures required by the court; or
- special procedures to strengthen judicial management.

1. Timing of steps in court budget review. The first

¹⁴In rural areas, one judge may cover a number of counties, and thus, even though the court budget in each county may be small, the number of budgetary relationships can be administratively burdensome. Regional court administrators can fill this administrative need.

TABLE 4. Standard Budgetary Models in Trial Courts

Model Description	Principal Funding Source	Locus of Budget Preparation	Review by Court Administrator or Central Budget Office	Review by Judiciary	Comments
Unified State System	State	Office of state court administrator	Administrator may conduct budget hearings; in any event, his office controls trial court budget.	Chief Justice, sometimes the full court, reviews budget prepared by administrator; often a cursory review.	Under this model, trial court judiciary loses much of its power over budgetary policy and may not be involved in budget presentation.
Centralized Local System:					
Large Court	Local Government	Central office answerable to court or court administrator	Not necessary since budget preparation is centralized.	Full review by PJ or whole court.	Reduces direct budget negotiation between judiciary and divisions; court may hear appeals from decisions of administrator.
Small Court	Local Government	PJ or other judges personally involved in budget preparation	Usually no such offices.	Cursory due to judicial involvement in preparation.	Most appropriate in a trial court with a fairly small and uncomplicated budget.
Partially Centralized Local System	Local Government	Division level, perhaps separate budgets for some divisions	Review by budget office or administrator answerable to court.	Full review by PJ or whole court.	Most practical model for many courts.
Decentralized Local System	Local Government	Division level, perhaps separate budgets for some divisions	No central review, but there may be review by division head (who may be a judge).	Court may conduct cursory review of budgets; some budgets may be submitted to external agencies without court review (e.g., budget of elected clerk).	Court deals on a one-to-one basis with division heads without intervening staff analysis. Court may have very limited authority over some divisions. Weak system.

element of a court budgetary process is to specify the sequence of actions to be performed. This chronology is affected by the budgetary deadlines of the other branches.

The content of such a guideline would be determined by the degree of centralization of the court budget process. In a court where budget preparation is decentralized, the number of steps in the budget process, and the length of the budget process and budget cycle are necessarily greater than those in a court with a highly centralized budget process. Appendix A illustrates a chronological guideline.

2. Priorities and money constraints. The budget process of a trial court is normally subject to some money constraints. These constraints may be imposed by external agencies, or they may be imposed by the court in order to hold budget requests to levels which court leaders feel are politically realistic.

Since the funds realistically available to a trial court may not match the funds requested by trial court divisions, the budget process requires that there be some application of priorities. Some courts formally state their priorities to ensure that the court budget comes to them in an acceptable form.¹⁵ Other courts do not deal with priorities until late in the budget process, and then on an *ad hoc* basis. Where a court chooses to pronounce its views on money constraints and priorities, it might appear in a guideline as illustrated in Appendix B.

The illustrative guideline in Appendix B assumes a cooperative attitude between the court and the local executive branch and a willingness of the court to articulate its priorities publicly. These assumptions should be generally valid, but there may be situations where a court will find itself in an inter-branch confrontation and will therefore assert its optimum budget needs without disclosure of its priorities. There also are some jurisdictions where budgetary gamesmanship requires an overstatement of need, followed by a ritual cut.

An important current reason for imposing court budget priorities is rising taxpayer resistance to high property taxes, as exemplified by the 1978 California referendum limiting property taxation. Many trial courts are heavily dependent on county general funds, which are in turn heavily dependent on property tax revenues. There is an increasing likelihood that trial courts will face the prospect of reduced budgets. This prospect should lead to prioritization and will probably take the following form:

- mandated items will be removed from the court budget and submitted independently;
- the functions absolutely intrinsic to the adjudication process will be spelled out and protected; and
- social, administrative and clerical support services will become vulnerable to budget cuts.

Few courts will be invoking inherent powers in the teeth of a taxpayer revolt. An austerity policy may have to be enforced.

3. Program or performance budgeting procedures required by the court. Most trial courts are in jurisdictions which use traditional line item budgets. This time-honored process is well regarded by appropriating bodies, since it lends itself to item-by-item analysis and the identification of reducible expenditures. A typical line item budget is that of the Superior Court of Maricopa County, Arizona, contained in Appendix C.

In Maricopa County, or elsewhere, personnel costs constitute most of the budget and are subjected to the most detailed scrutiny. Line item budgets, with their emphasis on gross numbers in each employee category, provide the type of format which permits county commissioners or budget reviewers to quickly perceive gross increases in each employee category.

While line item budgeting has much to recommend it as a device for simply presenting expenditure needs to appropriating bodies, it has very limited management utility for an administrator.

Line item budgeting aggregates costs by object of expenditure within organizational units and does not directly relate costs to programs and objectives. Thus, a line item budget is not very useful for achieving any of the following:

- for reviewing a total budget request, as opposed to reviewing incremental increases;
- projecting financial needs of the court (which must be done in terms of programs or activities); or
- allocating money to support performance in pursuit of objectives.

It would be a rare trial court that would want to, or need to, institute some detailed version of a modern budgeting system to supplement its line item budget. Yet, many trial courts could strengthen their budget management and planning by using some of the more basic and practical aspects of these modern systems.

The precursors of many contemporary budget systems were the Planning, Programming and Budgeting Systems (PPBS) instituted at the federal level in the early 1960's. This method of financial management arose in the con-

¹⁵Where the trial court has a planning process, priorities can usually be extracted from the plan. Few trial courts have a plan.

text of defense budgeting, where outlays are enormous, interservice competition keen and choice of alternatives very crucial, both strategically and economically. The essence of PPBS is the analysis of alternatives methods to achieve some defined set of goals and objectives.

PPBS features trade-off analysis, quantification of targets or outputs and long-range programming. It calls for preparation of multi-year budgets relating expenditures to the various programs for achieving goals and objectives. Basically, it is a planning and analytical goal.

PPBS is not particularly well suited to local government agencies with small budgets, few options and a clear mandate to perform certain functions.¹⁶ Trial courts would find PPBS burdensome because the same judges may be engaged in fulfilling several court objectives (e.g., criminal, civil and juvenile objectives), and the cost of their time cannot be allocated to any particular objective.¹⁷

Closely related to PPBS are Performance Measurement Systems (PMS). These systems draw heavily on cost accounting and detailed analysis of work units to be performed for each budget dollar. PMS, like PPBS, requires that budget dollars be related to management objectives, but its principal emphasis is ensuring productivity. Such systems are often accompanied by detailed information systems to measure work productivity.¹⁸

A recent favorite of federal budgeting officials has been Management by Objective (MBO).¹⁹ The system features management participation in the definition of organizational objectives and the relationship of budget requests to these objectives. A principal characteristic of the system is detailed work planning to ensure that the work performed for dollars received achieves the organizational objectives. MBO is geared to management of work tasks and reporting on progress. It is less oriented to cost accounting than PMS.

The current favorite of budgeteers is Zero Base Budgeting (ZBB). This system requires a periodic justification of a total budget request in terms of stated organizational objectives. The system features alternative budget submissions stating how an organization would function at various levels of funding. Many states

and localities are experimenting with ZBB.²⁰

These various budgeting systems differ a great deal in detail, but have some common practical elements, such as:

- their insistence that a budget should be based on a defined set of management goals or program objectives; and
- their emphasis on quantification of the work to be performed for dollars received.

A trial court need not wait for a modern budgeting system to be imposed in order to take advantage of the better elements in these systems. There is considerable intrinsic value in examining the purposes for which money is being spent and the productivity in relation to expenditures.

If a trial court (or more likely, a trial court administrator) chooses to review the court budget in light of court objectives, it would be necessary to articulate what these objectives are and to organize them into a budget structure. The principal objective of a trial court is adjudication of cases. Appendix D illustrates a program budget structure organized around the adjudication function.

There are several ways a programmatic budget structure can be developed. It can be developed by a presiding judge or an administrator for his or her own use so that he or she can relate budget requests to specific court objectives. It can also be developed by involving a number of court leaders in defining objectives. Since many trial court objectives are legally mandated, participatory goal definition may not be necessary.

Where a programmatic budget is developed for the personal management needs of a presiding judge or court administrator, it may not be necessary to superimpose the budgeting requirements by a court guideline. Often it is difficult to impose budgeting techniques which aggregate expenditures without reference to organizational lines, so that some court managers may prefer to make such aggregations by personal estimate, rather than by formal budgetary requirements (as illustrated in Appendix E).

It is quite possible to combine traditional line item budgeting and program budgeting to use the best features of both. Table 5 indicates that it is possible in one format to analyze both the proposed expenditure to meet objectives and the relevant line items.

Placing budget needs in the above format preserves the

¹⁶PPBS is more likely in a unified system with state financing, since the size of state budgets makes program budgeting more useful.

¹⁷For example, Hawaii has a program budgeting system to which the courts must conform. The courts were successful in having the programs adhere closely to the organizational lines of the court.

¹⁸For example, the Circuit Court of Cook County, Illinois, functions within a PMS system and maintains internal records on the work performed by each court unit.

¹⁹The Allegheny County (Pittsburgh) Court of Common Pleas has used MBO budget forms. MBO is also used by the courts in Hennepin County, Minnesota.

²⁰The state-financed Kentucky court system is adjusting to ZBB. At the local court level, both Dade County and Orange County, Florida, have started ZBB. ZBB was abandoned in Hennepin County, Minnesota.

TABLE 5. *Expenditures by Objective and by Object*

Objective	Object of Expenditure				Total
	Personnel \$	Services \$	Supplies Material \$	Other \$	
Adjudication of Civil Cases					
Adjudication of Criminal Cases					
Provision of Security					
Provision of Social Services					
Administrative Support					

valuable aspects of line item budgeting while adding a new management dimension to the budget—the ability to analyze resource allocation by court objective. It further illustrates the necessity for transferring line items to a program budget format (called cross-walking in budgetary jargon).

In the final analysis, the introduction to objective-oriented or performance-oriented budgeting techniques depends on the managerial complexity of a trial court and how seriously top administrators and the judiciary take their budgetary responsibilities.

4. Special procedures to strengthen judicial management. Where the courts are subjected to a well-developed executive branch budget process, and use it well, few additional procedures are required. These additional procedures could be reflected in budget guidelines and would relate to the internal needs of the judiciary, specifically:

- the managerial need to ensure budgetary adequacy (as illustrated in Appendix F);
- the managerial need to control volatile budget items (as illustrated in Appendix G);
- the managerial need to control budget increases (as illustrated in Appendix H); and
- the managerial need to monitor expenditures of appropriated funds (as illustrated in Appendix I).

5. Conclusion. Trial court budget guidelines should be few in number, strictly supplementary, tailored to the specific needs of the court and very simple. However simple such guidelines may be, they are a key ingredient in the trial court budgetary process.

C. Review of Budget Submissions

Review of budget submissions may occur at various

administrative levels in a court: the division or office level; court administrator level; or judicial level. The nature of a budget review would vary according to the administrative level at which it occurred. For purposes of this section, budget review is discussed as it might occur at the highest administrative level of a court.

Budget review can be considered as a means of answering a few of the following basic questions.

- Are budget requests commensurate with workload and work output?
- Can the court justify proposed budget increases validly?
- Does the budget estimate and control the more variable and volatile item of expenditure accurately?
- What are the future implications of the current budget requests?
- Does the budget meet court needs?

The following section deals with the ways to answer the above questions.

1. Performance analysis.

a. *Purpose of performance measurement.* A requirement that budget requests be justified in terms of work performance can be a major management feature of a budget process. The requirement is based on the premise that budgetary resources are intended to produce tangible results in terms of products, services or other work units.

Relatively few governmental budget processes require quantification of work performance, since the principal focus is on marginal budget increments. Consequently, few trial courts require a linkage between money requested and work to be performed. Yet this requirement offers an important means for trial court leaders to exercise their management responsibility for performance and to review a total budget request, not just proposed increases.²¹

b. *Types of performance measurement.* There are at least six principal categories of performance measurement. Of the six categories of performance measurement in Table 6, four have particular utility for trial courts:

- work input measures;
- work output measures;
- effectiveness measures; and
- efficiency measures.

²¹There is a tendency among trial court managers to see performance measurement in terms of their relationship to the executive branch, rather than as a means of internal accountability to them. For this reason, there is considerable skepticism about performance management.

TABLE 6. Common Types of Performance Measures

Type of Performance Measurement	Description of Performance Measures	Examples of Performance Measures
Need/Demand	Measures of client population which require services from or provide work for various court divisions.	<ul style="list-style-type: none"> • juvenile population • number of probationers • number of attorneys • case filings
Work Input	Measures based on amount of work units to be handled.	
Work Output	Measures reflecting goods and services produced.	<ul style="list-style-type: none"> • opinions written • cases disposed
Effectiveness	Measures describing the relationship between the work requirements imposed on the court and those performed.	<ul style="list-style-type: none"> • filing/disposition ratios • pending cases • time from filing to disposition
Productivity	Measures describing outputs per worker or per time period.	<ul style="list-style-type: none"> • pre-sentence investigations per officer or per week
Efficiency	Unit cost or program cost of output.	<ul style="list-style-type: none"> • dollar cost per disposed case

The general tendency is to use input measures, since they provide a large and gross picture of work to be performed and do not offer targets for criticism. Work output, efficiency and effectiveness measures relate more specifically to performance and focus on the cases which reach the stage of hearing or trial.

Typical of these latter measures are those used by the Circuit Court of Cook County, Illinois, in connection with its budget submission:

Functions

Measure

Adjudication	New Cases
Defense	New Cases
Investigations	Investigations
Psychiatric	Examinations
Case Work	Field Cases
Juvenile Court	New Cases & Guardianships
Screening	Interviews
Jury	Questionnaires

The above measures are quite simple. More detailed measures of adjudication are contained in Appendix J.

TABLE 7. Illustrative Format for Measurement of Performance

Program	Performance Measure	1976	1977	1978
Criminal	Indictments			
Civil	Civil filings			
Juvenile	Referrals			
Adult	Avg. month case-load			
Probation	Pre-sentence investigations			

Performance measures for a variety of court support functions are contained in Appendix K.

The various performance measures listed in Appendices J and K may provide more detail than is necessary for most court budgeting processes. One or two simple measurements usually give an adequate indication of workload and input trends, as indicated in Table 7.

The gross workload indicators in Table 7 provide some frame of reference for evaluating a budgetary request. There should be some correlation between workload trends and budgetary trends. A simple form is usually adequate to bring major discrepancies to the attention of court officials²² and to permit reallocation of funds (see Appendix L for an illustration of such a discrepancy).

Budget-workload analysis does not always work to the advantage of a trial court. In some jurisdictions, particularly those rural areas with declining populations, caseload may be on a downward trend. Yet it is often unwise to cut appropriations in a rural court. Unlike an urban court, where it may be possible to reduce a clerical staff without affecting basic court operations, rural courts usually have to maintain a certain small core staff simply to keep the court operating, a requirement which is not directly related to caseload. Moreover, rural courts, unlike urban courts, have less ability to reshuffle personnel if there is a reduction in force, since staffs are small and each clerk must perform many diverse func-

²²Realistically, most court divisions will give themselves the benefit of the doubt on predicting workload, but where budgets are placed in a multi-year historical context, the trends will be clear enough.

tions. The unique needs of rural courts deserve a more specialized treatment than is given in this booklet.

2. **Increase justification.** Proposed budget increases would quite naturally be the subject of a trial court budget review. The purposes of such a review are:

- to exercise management responsibility over requested expenditure of public funds;
- to test the validity of the justification so that the court preserves its credibility with external agencies; and
- to ascertain whether the increase is consistent with court priorities.

Normally, each proposed increase should be justified in writing, the level of detail varying with:

- the newness of the funded item and lack of a "track record;"
- the complexity of the program being funded;
- the amount of the increase; and
- the future implications for even greater increases.

The nature of the written justifications would vary with the type of increase, as described below:

Annualization. This involves spreading over a full budget year the cost of a program funded for only part of the previous budget year. This budget issue is generally settled in the year when partial funding is allowed, quite often as the result of assuming the costs of a federal program which expired part way through the budget year. Annualization should be *pro forma*.

Salary increases. Salary increases may occur as the result of merit increase or promotions. The former are, in some systems, quite automatic and can be computed by reference to eligible employees and anniversary dates. In a system where merit increases are not *pro forma*, an estimate must be made of the percentage of employees which will receive such increases based on past experience. Promotions raise a different problem. Many public agencies try to time promotions to coincide with a new budget year to avoid the problem of guessing and may actually include promotion justification as part of their budget submission. It should be noted that promotions do not constitute a budget problem in any court where there is a fixed amount of authorized positions in each pay grade, but promotions do raise a budget problem if they result in more employees in a higher pay grade.

Costs of operating or maintaining a new facility. A new facility usually is funded from capital funds, but it is not unusual for space to be rented, in which case it is an operating budget item to be judged by prevailing rental

costs. Of equal significance is a reasoned statement of the custodial, maintenance and operational staff necessary to operate the facility.

New legal obligation. Allowances must be made to carry out a new obligation mandated by court rule or statute, (e.g., speedy trial rule).

These costs (often referred to as "legislative impact" costs) are very hard to estimate without a special implementation plan. Often, they are budgeted for after the fact, using experience to justify future costs.

Inflation. Allowance must be made for probable increase in costs of goods and services to courts. This usually does not include cost-of-living increases for staff, which are normally determined on a government-wide basis and are financed by a supplemental appropriation.

Most budget systems allow for a standard inflation factor on goods to be purchased. National indicators may be used, but local trends in prices are a common basis.

Workload. A common cause for budget increases is increased workload. This must be supported by some documentation, such as judge-caseload ratios, probation officer-caseload ratios or other standard justification formulas. The most difficult aspect of this documentation is clearly illustrating how increased activities in court-related agencies augment the workload of a trial court.

Program improvement or upgrading. This increase relates to quality of service and is based upon the need to meet some pre-established standard (e.g., a pre-sentence investigation in each criminal case where a conviction is obtained).

Like "legislative impact," this type of increase tends to be nebulous for documentation purposes. It may require comparative data from elsewhere.

New capital expenditures. For acquisitions other than replacements, there must be a special justification since a new capital item is being added to the court's inventory. This is best handled by an item-specific justification, rather than a "ball park" estimate. In fact, local budgeting practices often dictate such specificity, particularly where revenue-sharing funds are to be used.

New program. A special justification is required for budget increases to start a new program or to assume the cost of a federally funded program. In the latter situation, there is a track record and quite possibly a pre-existing agreement by local or state officials to assume cost of the program. In the case of an entirely new program, the burden of proof is considerably higher, particularly for a program of a complex or technical nature.

The format for written justification of increases might vary. The only key requirement is that the justification be provided to court decision-makers in a relatively uniform

format so that proposed increases can be compared against each other and matched against court priorities. Appendix H illustrates guidelines on the subject.

3. Control of variable expense items. The average trial court budget contains many items which are fairly stable in amount and are almost automatically approved. Personnel costs, inevitably the major budget item, constitute one of the more stable expenditures, since salaries are usually set by a scale and are subject to almost automatic increments.

Trial court budgets also contain items which are more variable and volatile. These items require special management control, since they can expand rapidly and may make the trial court budget subject to attack. The variable items fall into two basic categories:

- legally mandated expenditures; and
- non-mandated expenditures that are subject to quick expansion, if uncontrolled.

a. *Mandated items.* The more common mandated items are listed below.

Juror payments. The right to trial by jury is legally mandated, but it is difficult to predict how the right will be exercised. The number of jurors called, the number qualified and the number who serve are affected by many factors, some of them beyond court control (e.g., prosecutorial and defense tactics). Juror costs can mount rapidly.

Indigent defense. Indigents have a right to counsel and a transcript. Often, courts assume the burden of budgeting for the fees paid to appointed counsel or court reporters. These fees may be subject to a legal maximum or may be open ended. The court cannot deny a right to counsel, but it may control expenditures through its criteria for indigency and its policy on approving fees.

Witness fees. Witness fees, including expert witness fees, may be payable by the court in certain cases. Expert witness fees tend to be open ended. The right to call witnesses is largely beyond court control and quite unpredictable.

Medical examinations. More stringent requirements of *due process* have required courts to budget for psychiatric exams in cases of civil commitment; courts may also bear the cost of mental examinations in cases where a criminal defendant appears incompetent to stand trial.

Legally mandated items are, by definition, open ended. While such costs can generally be predicted with a fair degree of accuracy, there is no guarantee that legally mandated expenses will follow past patterns. They occasionally escalate quite sharply.

An upward surge in mandated items may cause an

adverse reaction to the rest of the court budget. This reaction may be particularly severe if the court frequently requests supplemental appropriations. Even where courts have limited control over these expenses, they may suffer a loss of budgetary credibility due to a quick rise in expenditures.

In coping with the problems arising from mandated costs, a trial court should:

- explore the possibility of transferring some mandated items out of the court budget (e.g., indigent defense) or of treating mandated items outside the normal budget framework (e.g., a separate submission);
- develop a methodology for estimating costs by use of historical cost trends, historical workload trends and by injecting any new factors likely to affect costs (e.g., a change in *voir dire* practices in jury selection); and
- check current administrative practices to ensure that they are as stringent as possible given the legal rights involved.

Techniques of estimating mandated court expenditure will naturally vary by jurisdiction, since there are wide variations in jury systems, indigent defense systems, witness fees and use of psychiatrists or doctors. There are, however, a few basic factors generally affecting each area of legally mandated expenditures.

Certain jury costs are fairly stable (e.g., grand jury costs and jury commission costs). Other jury costs are much less predictable (e.g., petit juror fees and sequestered jury costs).²³

Petit juror costs should bear some relation to the number of jury trial days, which in turn is limited by the availability of jury courtrooms and trial judges. Petit jury costs are not completely open ended, since no matter how many jury trials are requested, the number of trials cannot exceed the physical and judicial resources.

What runs up juror costs is a call-in of jurors that is excessive in the light of jury trial activity. Paid juror days are a function of these call-ins, not actual days served in jury trials. Consequently budget estimates must be related to call-in practices, while management control must also center on the same practices.²⁴ The key quantifiable item is paid juror days in preceding budget years.

The number of attorneys appointed to defend indigents is a function of the number of persons accused of crimes involving commitment, the prevailing rates of claimed

²³ Sequestered juries may simply be discontinued in some states (e.g., Maine).

²⁴ There are, of course, other factors: jury size, *voir dire* practices, etc.

indigency and the extent to which public defender services are available.²⁵ In a jurisdiction with legally prescribed maximum fees, indigent defense costs can be estimated reasonably well. However, where such fees are open ended, they may run as high as \$10,000 or more in a single case. Therefore estimates must be made in the light of average fees allocated over the recent past in the particular jurisdiction.

Witness fees and medical fees are very hard to estimate and must be based to a large extent on trends over the recent past.²⁶

b. *Non-mandated, variable items.* There are some items in every court budget which are not legally mandated, but nonetheless are troublesome because they are subject to substantial variations from year-to-year, and because they tend to expand rapidly if uncontrolled. Some examples of these items are noted below:

Travel. Judicial travel has increased greatly in recent years, as has travel for clerks, administrators and professional staff. The major items are out-of-state or overnight travel for conferences or for educational purposes, both of which can balloon.

Capital expenditures. Major items of equipment (\$50 or more) can become a troublesome cost factor if not limited by enforced specificity and by a replacement schedule based upon an inventory with a depreciation cycle.

Contractor services. The rigidity of government personnel systems invites reliance on contractor services as an easy way to augment personnel resources. Contractor services require special budgetary treatment.

Electronic data processing. Computer systems tend to grow in terms of sophistication, machine use and support personnel. A change in configuration (for example, an upgrading from a batch to an on-line system) invites a series of future costs that have to be anticipated. Technical review is necessary.

Various other items might be added to those above. The key consideration is that certain budget items require special scrutiny because they are not fixed expenditures and because they possess one or more of the following characteristics:

- they are not items which normally require funding at a fixed level from year-to-year (e.g., contractor services);
- they are "luxury" items which can be transformed into "necessity" items (e.g., out-of-state travel);

²⁵In a large jurisdiction, the cost-per-case for public defender services usually is considerably less than the cost per case where appointed counsel is used.

²⁶Medical fees in civil commitment and criminal cases tend to follow the cost patterns established in personal injury cases.

- they are "risk" items in the sense that they tend to generate sharply increased expenditures in future years (e.g., computer systems); and
- they are politically vulnerable items (those that are likely to be challenged by external agencies).²⁷

c. *Methods of control.* It is possible to control budgeting for variable expense items through the budget review process. It is also possible to control the development of budget requests in this area, rather than oppose inflated requests after they have been made. The latter method can be incorporated in a budget guideline (see Appendix G).

4. *Multi-year trend analysis.* A general weakness of budget reviews is a failure to regard budget requests in a multi-year context. Without this frame of reference, it is hard to discern historical trends or future courses of direction. This lack of time perspective hampers decision-making in several ways:

- escalating cost items are less likely to be detected;
- the future impact of current expenditures is less likely to be anticipated; and
- financial planning is largely negated.

As a general rule, there is merit in using a five-year time frame which includes two previous years, the current year and two future years. (Appendix M illustrates a three-year time frame). In order to project expenditures several years into the future, it is almost imperative that such a projection be in programmatic form, since expenditures are a function of program activity.

The significant aspects of a five-year analytical time frame are that:

- it provides two previous years of actual expenditure as a data base;
- it permits easy identification of expenditure trends by organizational unit or by program, as well as by object of expenditure;
- the format lends itself to cross-comparison with workload data in the same period, and
- it requires a two-year projection, so that some consideration must be given to cumulative costs and future impacts.

The above benefits are substantial. The greatest benefit is the last because it relates to planning, a relatively unused art.²⁸ Any trial court plan must, as a matter of

²⁷In many jurisdictions, appropriating bodies focus their economic zeal on those items in a court budget which are not directly related to adjudication; in particular, social programs.

²⁸See, *Establishing an Effective Court-Planning Capability, the Financial Aspects of Court Planning*, Court Planning Capabilities Project, Denver: National Center for State Courts, 1977.

necessity, include financial projections over a multi-year period. If the budget process is based on one budget year, there is a divorce of budgeting from planning, which is detrimental to both.

5. **Procedures to ensure budget adequacy.** A trial court budget may prove deficient in several regards, such as:

- failure to meet requirements of form; and
- failure to meet the resource needs of the court by reason of omissions or misestimates.

The executive branch budgetary procedures are not designed to help courts protect themselves against their own mistakes. There must be some protective procedures internal to the court.

Mistakes of form are seldom fatal and normally require only an admonition to observe those aspects of externally imposed budgetary procedures which have proved troublesome in the past.

Substantive mistakes and omissions are far more serious. A trial court can find itself strapped for funds and somewhat embarrassed by failure to ensure that every aspect of court needs has been considered prior to budget submission. To preclude such a failure, it is prudent to institute internal budget procedures which force systematic consideration of those budgetary items which most often are overlooked or misestimated. Typical of the budgetary items which require special consideration are the following:

POINT TO BE CHECKED.

NATURE OF CHECK.

Allowance for New Positions	Determination that budget reflects salary costs at the appropriate pay grade for newly authorized positions.
Allowance for In-Grade Salary Increases	Usually an automatic computation based on anniversary dates, but will require a more sophisticated projection if increases are not automatic. Should be a routine budget inclusion.
Allowance for Cost-Of-Living Increases	May not be a budget item in a jurisdiction where each cost-of-living increase must be approved by the governing body and financed by a supplemental appropriation. Where the increase is more or less automatic, the court budget should reflect the increase at the inflation rate specified by local enactment.
Allowance for Fringe Benefits	Governments vary markedly in budgeting for employee benefits, such as; retirement and health insurance. Some treat fringe benefits as an overhead item financed from one fund covering all agencies, but others require each agency to budget for some or all fringe bene-

POINT TO BE CHECKED.

NATURE OF CHECK.

Allowance for Temporary, Part-Time Help, Vacation Time	Determination of how to budget for a right mix of full-time and part-time employees so that court is adequately staffed at peak periods and in vacation periods.
Allowance for Contractors	Determination of how to supplement full-time staff with contractors. Budget should include money to cover any anticipated task which cannot be performed in-house. Amount allocated should reflect reality of task to be performed and prevailing contractor rates.
Intergovernmental Services	Determination of how to supplement in-house personnel by retaining services of other governmental agencies (may include personnel, space, equipment rental, supplies and other costs). The budgeted amount is often negotiated in advance.
Federal Funding Impact	Determination as to whether budget should reflect new money to match federal funds (often matching is handled by appropriations from a general matching fund); determination as to budget impact of a reduction or termination of federal funding for a particular program during the budget year.
Increase in Cost of Goods	Ascertain whether allowance has been made for inflationary increases in supplies, equipment, utility costs, travel costs and other services; also whether selected inflation factor is adequate.
Impact of Major System Development	Ascertain whether cost impact of major new management systems (e.g., information systems) have been fully anticipated as to personnel, space, equipment and other costs.
Impact of Normal Workload Increases	Ascertain whether impact of continuing upward trends in workload has been reflected in the budget.
Impact of Changes In Law or Rules	Ascertain whether impact of new legal or procedural requirements has been anticipated in the budget, and if so, how adequately.
Impact of New Facilities or New Judgeships	Creation of a new facility or a new judgeship creates a series of related personnel and equipment needs which must be anticipated in a budget. Should almost be a formula.
New Programs	The cost of new programs is often under-

POINT TO BE CHECKED.

NATURE OF CHECK.

Anticipation of Highly Variable Costs

estimated. Failure to anticipate start-up costs (i.e. initial outlays) is quite common. This is an area where omissions frequently occur.

Ascertain whether computation of jury costs, indigent defense costs, witness costs or medical and psychiatric exam costs are computed without omission of key factors. This is an area of frequent underestimation.

Contingency Fund

Budgeting is at best, an inexact science. Prudence dictates that there be some contingency funds, normally placed in various line items of a "soft variety" and running roughly 1%-2% of the total budget.

As a matter of internal control, a trial court can identify those budget items of maximum concern and require that they be specifically addressed in the budget process, as illustrated in Appendix F.

It is not enough just to ensure that overall funding is adequate. It is important that there be a check to determine if funds are adequately distributed. This is best done in terms of a program budget, as illustrated in Appendix N.

6. Conclusion. The basic steps in the budget review process are simply:

- comparing performance to money requested;
- requiring justifications of increased expenditures;
- protecting the court against overruns arising from volatile expenditures;
- projecting the court's needs beyond the current budget year; and
- ensuring that the budget meets the resource needs of the court.

Review is impossible without some sort of budget analysis. This requires staff with the expertise to perform such an analysis. This type of staff support is crucial. Appendix O contains a sample budget analysis, outlining all aspects of budget review as it might occur in a well-staffed trial court.

D. Financial Policy and Strategy

A major problem of trial court budgeting is that it is seen in a very mechanical and microcosmic way, simply as a means of obtaining appropriations from a state or local general fund. However, a budget can be more than a routine funding document. It can be the principal component of an overall financial plan for the court and a

means of establishing the financial posture of the court in relation to external agencies. In short, it can have significant policy implications.

1. Financial plan of court. General fund appropriations are the principal, but by no means the sole, source of funds for trial courts. A trial court budget is part of a larger plan for funding court operations and capital improvements, if such are needed. Budget decisions, therefore, are made in the broader context of a financial plan which integrates all possible funding sources available to trial courts. The more common funding sources are listed in Table 1, *supra*.

a. *Mix of funding sources.* The ultimate policy consideration for a trial court is determining the appropriate mix of funding sources to meet the financial needs of the court. This financial plan should exist, in at least rough form, at the time of budget review so that the court can identify redundancies in funding sources and make sure that no item of financial need is ignored because it was mistakenly assumed that it would be paid from some non-budgetary source. What is required is some overall frame of reference, such as that contained in Appendix P.

The value of the table contained in Appendix P is the perspective which it provides to decision-makers. It permits them to determine:

- if alternate funding sources have been ignored;
- whether alternate funding sources can be used; and
- the totality of court expenditures.

The last-mentioned benefit is often ignored. The budget process, because it is the most important process for resource generation, tends to obscure the fact that a court may have a variety of actual or potential funding sources.

b. *Revenue considerations.* A related aspect of total, resource financial planning is the relationship of revenues to expenditures. The amount of revenues collected by general jurisdiction trial courts is usually not high in relation to expenditures (unlike limited jurisdiction trial courts where revenues often equal or exceed expenditures). Nonetheless, revenues are often viewed as offsets to expenditures by the executive and legislative branch, and trial courts, for better or worse, have to include revenues in their planning and conduct ongoing analysis of the court's revenues.²⁹

²⁹In some jurisdictions (e.g., Oklahoma) court revenues go into a judicial fund so that operations are financed by general fund appropriations and earmarked revenues. In these jurisdictions, revenues are more than an offset; they are a basic funding source.

A starting point for any revenue analysis is to systematically analyze the whole revenue system, which is often complex and is sometimes not very fair³⁰ or efficient.³¹ Such an analysis obviously does not have to be done on an annual cycle, but the existence of such an analysis and its periodic updating is a necessary aspect of overall resource planning. A typical analytical format is illustrated in Appendix Q.

A corollary of the analysis depicted in Appendix Q is a projection of revenues. This directly relates to expenditure projections and is an essential element of a financial plan. Revenue projection is often a function of caseload and should be projected within upper and lower ranges, as illustrated in Appendix R.

A final component of a financial plan is the linkage between expenditures and revenues. From a tactical viewpoint, it is usually unwise for a general jurisdiction trial court to emphasize this linkage, since it fosters illusions that trial courts should be self-supporting. It is, however, important to consider revenue factors, since they can occasionally be used advantageously in budget presentation, and since they are a logical part of any financial overview. Appendix S illustrates a format for comparison of expenditures and revenues.

2. Financial posture with respect to external agencies. The budget process involves an element of inter-branch tension, since there is an adversary aspect to budgeting. This inter-governmental by-play is normal and usually not extreme. It is, nonetheless, a fact of life which very often requires that trial court leaders develop and implement a policy for dealing with external agencies. For obvious reasons, such a policy might not be reduced to writing. Some of the financial policy issues faced by trial courts are indicated below.³²

a. Ceiling on court expenditures. Not uncommonly, trial courts are directed by external agencies to keep their expenditures within certain limits. The normal origin of such a mandate would be the executive branch of a local government. The mandate can take various forms and may even involve a reduction in resources. Typical mandates might be: an order to hold budgets at the previous year level and to absorb automatic increases; an order to keep increases within prescribed percentage limits; or an order to hold authorized positions at existing levels and not to fill vacancies.

³⁰ Court costs and fees can reach a point where they limit access to the court. This must be weighed against the natural inclination to make litigants pay for use of the court.

³¹ Where a great variety of small costs are collected, the administrative burden may outweigh the revenue.

³² These issues do not, on the whole, apply to unified systems.

Whatever the form of the order, it poses a policy problem for trial courts, since the judiciary may choose to challenge such restrictions. Generally, trial courts have few legal weapons at their disposal, other than assertion of inherent powers, but rarely are courts forced to the extreme of ordering other branches to honor their requests. Quite often, they can achieve their objectives by a less blunt assertion of judicial branch prerogatives.

The ultimate dollar amount requested by a court is a fundamental policy decision, since it involves the political relationship of the court to other governmental bodies and may, in certain circumstances, involve a confrontation with these bodies.

b. Internal control of budgeted funds. Trial courts vary widely in terms of their power to transfer budgeted funds freely. In some courts, there are great restrictions on the transfer of funds from one line item to another. This can lead to negative spending in one item and gross under-expenditure in another. This may, in turn, inhibit the court's ability to obtain funds in the next budget cycle.

The ultimate goal of any court is a lump sum budget which frees trial courts from line item restrictions and permits free transfer of funds. This freedom of allocation can often be achieved on a *de facto* basis by an informal understanding with the executive branch or by invocation of inherent powers. The former method is preferable.

Sometimes a trial court may encounter opposition to free transfer of funds. This situation may foment a policy issue requiring that the court seek greater latitude in allocation of appropriated funds.

c. Supplemental or open-ended appropriations. Since courts have some variable, but legally mandated, expenditures, trial courts occasionally have budget crises that bring them into conflict with the other branches of government.

A basic policy issue with many trial courts concerns their need to finance such costs by supplemental appropriations or open-ended appropriations. This issue involves the legal duty of courts to provide services regardless of budget constraints.

d. Control of special court funds. Many trial courts are the beneficiaries of special funds earmarked for court purposes. These funds are normally fed by special court costs and are under direct control of the judiciary. Such funds provide an important supplement to budgeted funds and give a trial court considerable flexibility.

Very often, a revenue-starved local government casts covetous eyes on such funds and suggests that they be absorbed into the general fund. This attempt may start with a request to audit the fund.

Court control of these funds can become a major policy issue, one on which a trial court may periodically have to take a stand.³³

e. *Access to non-budgeted funds.* For purposes of equipment acquisition or facility construction and renovation, trial courts often seek money from funds other than the general fund. Access to federal revenue-sharing funds and capital funds is often sought.

Courts do not always have good success in obtaining state or local capital funds for facility construction or renovation. The exclusion of trial courts from such funding can raise a significant policy issue.

f. *Pressure to forego independent management systems.* A frequent point of tension between courts and external agencies arises from executive branch pressure for courts to forego their own management systems and to use executive branch systems. A classic example is pressure to use a central county computer.

Very often, it is economically beneficial for a court to use an executive branch computer. Occasionally, however, a court finds it advantageous to have its own equipment, especially since mini-computers have become more available. The executive branch may choose to block such an acquisition through the budget process.

This problem of judicial branch independence occurs with some frequency and can be a major policy issue.

Other policy issues could be listed, but it is sufficient to note that a trial court budgetary process raises issues which can only be resolved by the judiciary.

E. Budgetary Presentation

1. **Section overview.** The budget process can be viewed as a series of negotiations with, or presentations to, various governmental officials. Viewed in this way, the process starts with the initial negotiations internal to the court and moves through a series of presentations culminating finally in the ultimate appropriation. Each set of negotiations and presentations involves different actors and different emphasis. This section describes the actors and the factors pertaining to their interaction.

2. **The progression of budgetary negotiations and presentations.** Although there is infinite variety in local budgetary processes, there is a certain general progression of budgetary interactions common to most jurisdictions. These interactions follow the principal phases of budgetary development:

- internal budget development;
- informal contact with external budget reviewers;
- determining the court's budgetary posture; and

³³ It is natural for a court, or any agency, to desire earmarked funds. Generally speaking, these funds cannot be defended as consistent with good management principles.

- formal presentation of the court's budgetary position.

a. *Internal budget development.* The initial interaction in the budgetary process is usually between the person (or persons) charged with pulling together preliminary budget figures and those officials with administrative responsibility for court operations. This opening exchange is usually informal, except in a highly structured court. It concerns the anticipated needs of various court divisions in the next budget year.

This process may be somewhat adversary if the trial court has some pre-established budgetary priorities. More often than not, it is a cooperative endeavor to ensure that court needs are anticipated and met. Much depends on the position of the budget-maker. If the budget-maker is a top administrator or a judge, the initial negotiations can result in some basic decisions which will probably be sustained by the court. If the budget-maker is a fairly low-level official, the initial budget interaction is primarily a cataloging of needs.

b. *Informal contact with external budget reviewers.* Many administrators feel that informal interchange between court budgeters and external budget reviewers is the key aspect of the budgetary process. While this appears to be a generally accepted principle, its application varies widely because of governmental organization.

In locally funded jurisdictions, the key external contact is the budget officer or budget analyst who represents the executive branch in dealing with the courts. However, some local appropriating bodies have their own staff so that court budgeters may have to deal separately with this staff.³⁴ The extent to which each staff should be consulted is a function of the relative budgetary powers of the executive branch and the appropriating body. Very often, one or the other dominates the budgetary process.

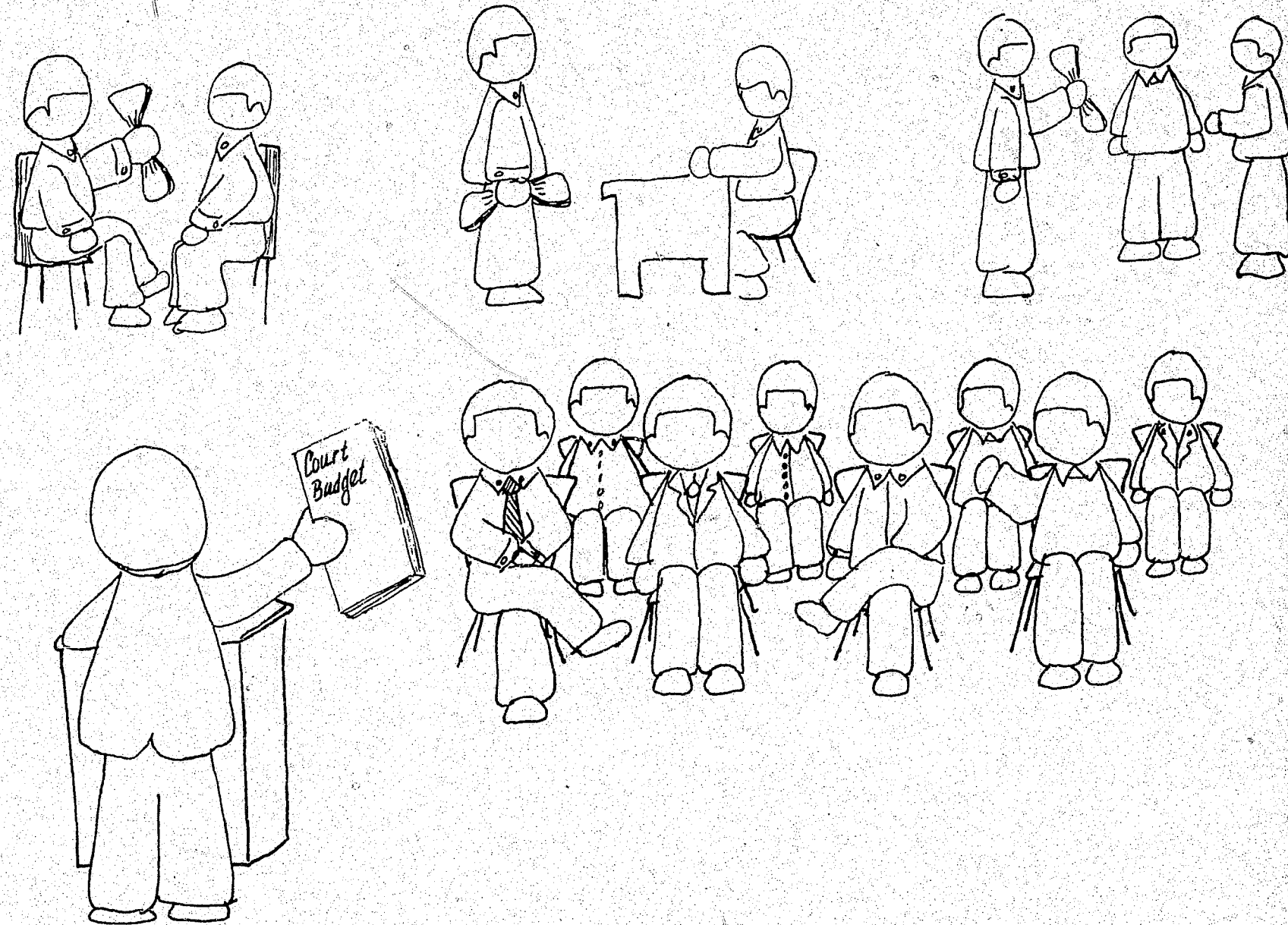
In a unified system, the informal contact is usually with a budget officer on the staff of the state court administrator's office or directly with the state court administrator himself.

With the exception of Colorado, where the state court administrative office conducts budget hearings on trial court budgets, most unified court systems rely on less formal methods of budgetary development.

Regardless of whether a system is unified or non-unified, it is prudent to reach budgetary accommodation in a dialogue which precedes the more open and rigid as-

³⁴ Obviously, there may also be informal contacts above the staff level (for example, contact between a judge and a county commissioner). However, matters of budgetary detail are mainly handled at the staff level.

Illustration 3: The Budget Process is a Series of Negotiations



pects of the budget process. This dialogue permits an interchange of viewpoints without involving the prestige of a presiding judge or his leadership counterparts in the other branches. Except for "show-down" issues where there is a very fundamental difference of opinion, many budgetary issues can be resolved prior to a formal budgetary position being adopted by the court.

c. *Determining the court's budgetary posture.* The adoption of a formal budget position by the court involves interaction between the budget-maker and the judiciary. The form of this interaction varies widely.

In many courts, judges are so involved in the budget development process that their adoption of the proposed budget is usually routine. They are, in effect, interacting with themselves.

In other courts, judges may not be heavily involved in the budgetary process so that administrators and division heads may have to make a defense of the budget and win support of the judiciary. This usually consists of persuading a judge or judicial budget committee, who in turn persuade the full court.

There is a considerable difference between this process and external budgetary presentation, since the latter process is more likely to be adversary. Internal budget presentation often emphasizes that the court's needs have been fully covered, whereas external presentation places emphasis on demonstrating that the court's needs are justifiable. This is not to say that the judiciary is unconcerned with budget economy, but only that judges are likely to see their principal responsibility as maximizing the resources available to the judicial branch.

d. *Formal presentation of the court's budgetary position.* A formal presentation of the court's budgetary presentation normally takes the form of a presentation to the chief executive of the local government, followed by another presentation to the appropriating body. There are, however, many variations in this pattern.

In a state-funded system, trial court officials may not even be involved in the formal presentation which is handled by members of the upper judiciary, the state court administrator or other state-level officials. The presentations at the state-level may be made to the executive branch, the legislative branch,³⁵ or both.

At the local level, formal presentation is governed by local government structures. Many local governments do not have the clear demarcations between the three branches, which exist at the state and federal level, and

thus do not require a formal budget presentation from the judiciary to each of the other branches.

For example, the county governing board in some jurisdictions exercises both legislative and executive functions, with the consequence that the court need not deal with two separate branches. There are, in fact, jurisdictions where a member of the judiciary has important executive functions in the county³⁶ or where a clerk of court is also a key official in the other branches of local government.³⁷ Each court must, therefore, deal with the other branches within the context of its local government structure.

Where inter-branch relations are fairly structured and follow state-level models, formal budgetary presentations are common practice. These presentations tend to follow two principal patterns:

- a relatively *pro forma* public ritual to ratify previously arranged decisions;³⁸ and
- a full-scale budget hearing with considerable questioning.

Within the same jurisdiction, a trial court may find that its presentation to the executive branch is a hard session, while its presentation to the appropriating body is only a ritual appearance. Very commonly, the court budget is presented as part of the executive branch budget with the principal burden of presentation to the appropriating body being that of the executive branch.

Where the chief executive presents the court budget, the court is often well advised to assume a low profile during presentation to the appropriating body, since court expenditures generally constitute a small percentage of total expenditures and may not be the subject of close scrutiny.

Presentation strategy must be altered occasionally due to changes in local government structure or leadership. If, for example, there is a change in government structure, such as a home rule charter,³⁹ budgetary techniques may change. Even a change in county managers can shape change in the way a court presents its budget, since

³⁶In Tennessee, a county judge is a top county executive. In many Alabama counties, probate judges have a strong executive position in the county.

³⁷A chancery clerk in Mississippi is the chief of staff for the county governing board and the county treasurer.

³⁸In some jurisdictions, there is a ritual "holding the line," followed by a series of supplemental appropriations. In some other jurisdictions, there is a ritual budget-cutting with the percentage well-known in advance of the cut, so that cuts can be anticipated.

³⁹For example, charters in St. Louis County and Kansas City greatly strengthened the budgetary powers of trial court administrators in relation to clerks, changing the whole nature of budgetary development and presentation.

³⁵In a state like Colorado, where the legislature dominates the budget process, the presentation is made only to the legislature. In Hawaii, the courts also deal directly with the legislature.

court officials may have to assume that the budget process will be adversary until they arrive at a *modus vivendi* with the new manager.⁴⁰

In the final analysis, trial court officials must evaluate their local budget structure to determine how seriously to approach formal budgetary presentations and whether and how to involve the presiding judge. Only a few basic ground rules can be advanced in this highly-politicized area of local government, such as:

- the role of the presiding judge, if any, should be largely ceremonial unless there is a serious inter-branch confrontation which requires an assertion of judicial branch prerogatives;
- the administrators or clerks familiar with budget detail should be present, but should advance no more information than is minimally demanded by local practice; and
- court representatives should be prepared to defend vulnerable sections of the budget, if necessary.

The last point is crucial and largely depends on a knowledge of the local governing hierarchy and how they approach a budget. Fortunately, in most jurisdictions informal interchange resolves many of the budgetary problems well in advance of public hearings, which represents a poor forum for consideration of financial issues requiring a detailed factual presentation.

3. *Techniques of budgetary presentation.* There are situations when trial court officials must make some presentation in defense of the court's budget or parts of it.⁴¹ Justifications are infinite in variety, but tend to be based on certain standard affirmations such as:

- increases in the workload require that the court have more resources;
- legal enactments, rules or case law impose mandatory requirements which can be met only with additional resources;
- the proposed budgetary increases will yield benefits which largely offset the increased expenditures;
- the increases are required to meet contractual or other commitments to court employees; and
- the increases are required to meet changed conditions in the economy, in particular inflation.

⁴⁰In one jurisdiction covered by the survey in connection with this booklet, the presiding judge only attended executive budget hearings if there was a new county manager. This was designed to provide a display of court prestige in the event the new manager used the budget hearings to effect budget cuts, rather than to ratify pre-existing agreements.

⁴¹For an extended discussion of trial court budgetary techniques, see Griller, Gordon M., *The Politics of the Court's Budgetary Process*, Denver: Institute for Court Management, 1976.

a. *Increases in workload.*⁴² Increases in workload are among the most common justifications for seeking budget increases. Workload increases are usually presented in the form of workload-personnel ratios, such as: judge-caseload or judge-disposition ratios; probation officer-caseload ratios; and clerk-pending case ratios.

Such ratios are often refined by inclusion of data to show the maximum or average number of work units that can be achieved by each employer in a particular class (e.g., a probation officer can handle only fifty probationers).

This traditional form of presentation has the advantage of simplicity and can be effective if the ratios are regarded as valid by appropriating bodies. However, such ratios do not usually reflect the real costs of increased work output, since they tend to focus on individual categories of employees rather than on the aggregate costs of disposing cases—the fundamental work unit of any court.

To remedy this deficiency, trial courts may keep documentation on cost-per-case so that they can demonstrate the added costs of processing more cases.⁴³ This technique permits a court to state that it takes \$1000 or \$2000 to dispose of each case and that an estimated increase in cases to be disposed will require a commensurate increase in the budget.

Cost-per-case data, to be effective, must be maintained over a multi-year period so that cost patterns have been validated by experience. Costs can be computed in several ways, such as:

- by dividing case dispositions into total operating costs;
- by dividing case dispositions into those costs directly related to adjudication (juror costs, witness costs, judicial salaries and salaries of personnel closely related to the adjudication function); or
- by refining the above approach to compute cost-per-case for each major type of case (civil jury, civil non-jury, criminal, juvenile, etc.).

⁴²Some trial courts have to deal with the problem of decreasing workloads and the need to hold their existing level of appropriation. This defensive action generally involves one or more of the following strategies: rural courts can truthfully assert that there is a basic cost just to conduct each session of court and that caseload only marginally affects costs; it can often be demonstrated that the court was underfunded in relation to its previous caseload; and it can often be shown that reduction in activity has been offset by increases in the cost of purchasing goods and services.

⁴³The Superior Court of Los Angeles County has performed detailed cost studies to determine the cost of operating each courtroom. The cost study also shows costs in major program areas and makes a distinction between direct and indirect costs.

Most courts do not have the accounting capability necessary to handle anything but a gross computation of cost-per-case. There is, however, merit in seeking a more sophisticated computation of costs, one which distinguishes between the direct and indirect cost of adjudication, establishing a fixed relationship between the two so that appropriating bodies accept the fact that adjudication carries an over-head cost in the form of various clerical, social and administrative support services.

This educational task requires that trial courts acquire the ability to document such facts as the following:

- that it costs \$2000 to adjudicate a case; and
- that there is an indirect cost of 55% to adjudicate a case.

Such a presentation will require an accounting system currently lacking in most trial courts.

b. *Response to legal requirement.* Trial courts must respond to a broad variety of legal actions occurring at the State or Federal level. Explaining the monetary impact of these legal requirements to a county commission is a difficult undertaking.

Generally, these legal requirements take one of the three following forms:

- a speedy trial law or rule;
- case law or statutes requiring that some new or additional procedural protections be provided; or
- legal enactments imposing upon local government some new or additional cost to support court operations.

A speedy trial rule involves a concentration of resources in a reduced time span and is very hard to cost out without some empirical data on actual operation of the system. In theory, the reduction of the average time to process a case will increase case costs, since work output is concentrated in a shorter time period. In actual practice, the cost increase may be marginal due to reduction in slack time, improved procedures and a higher rate of cases disposed without trial. The one certain extra cost is the expense for clerical and information services to monitor the time deadlines. Other costs require some documentation.

Legal requirements to meet some form of procedural fairness are usually not popular. Unlike speedy trial rules, which may produce a general benefit, increasing the quality of justice has few tangible political benefits. Thus, budget increases to meet these requirements are best presented in a context of utmost frugality. For example, if a trial court is required to budget for indigent defense, the budget should document the methodology

for maintaining a low cost-per-case, such as: rigorous voucher checking; a limit on fees (if possible); and stringent criteria of indigency. Budget requests can be presented in terms of cost-per-case where this demonstrates economy.

Another area where unit costs are usually helpful is in asking for funds to support new judgeships. Often, a legislature creates judgeships without consideration of the corollary costs to local government and the budget increases which this entails. Start-up costs to support a new judgeship should be treated as a unit cost composed of some or all of the following items:

- salaries of confidential employees (typically, secretary, bailiff and law clerk);
- additional judicial travel costs;
- initial orientation costs (for example, courses at Trial Judges College or state judicial college);
- facility space based on cost-per-square-foot-per-judge, with an allowance for renovation; and
- equipment costs (e.g., typewriter, recording equipment and law books, if not furnished by state).

Creation of new judgeships can, if properly handled, be turned into a budgetary opportunity rather than a budgetary disaster.

c. *Offsetting benefits.* Often increased court expenditures can be explained in terms of benefits to be derived. These benefits may be "soft" benefits (for example, the social good to be derived from a family counseling program). The benefits may also be more tangible. Typical of the cost-benefit presentations made on behalf of court budget items are the following:

ITEM	BENEFIT
Microfilming	The floor and file space saved offsets the cost of the microfilm system.
Recording Equipment for Judges	The increased bench and chamber time of the judges (as computed in dollar terms) more than offsets the equipment cost.
Word Processing	The savings in secretarial time offsets the equipment cost.
Computers	Some computer systems, particularly minis, can be partially cost justified by savings in clerical costs. Another common justification is that certain computer reports enhance the court's ability to monitor costs and to schedule cases more efficiently.

Any expenditure which increases personnel in revenue-producing areas has an automatic offset (for example, addition of personnel to enforce support payment). The return to the county in terms of welfare is often substantial where support orders are sternly enforced.

d. *Inflation.* Inflation is a factor in any governmental budget. Most commonly, it applies to capital expenditures, material and supplies. Unless there are pre-existing purchase contracts with vendors, it is legitimate to assume a 5%-6% inflation increase based upon catalog costs at the time a budget is drawn. Inflation also affects personnel costs, but, generally speaking, cost-of-living increases are handled on a government-wide basis.

e. *Increases required by personnel policy.* Sometimes by union contract and sometimes by local personnel policies, courts commit themselves to certain courses of action in regard to personnel compensation (for example, that 50% of all court employees will annually receive merit increases or that a certain level of performance will merit promotion). Some of these policies may actually be formal commitments in rules or a contractual provision, but often they are traditional policies. Many local governing bodies are more concerned over keeping faith with employees than with elaborate economic justifications.

F. Budgetary Monitoring

1. **Rationale for a monitoring system.** A normal inclusion in any budget process is the monitoring of expenditures. The purposes of such monitoring are:

- management control to ensure that spending stays within budget limitations;
- advance discovery of possible overspending problems, which may require supplemental budget requests or management changes to effect savings;
- investigation of underspending to determine if there have been serious misestimates of costs or failure to perform certain functions;
- development of a data base on which to gauge money flow⁴⁴ and on which to base budget decisions for future years; and
- perhaps, in an advanced system, to link expenditures with workload reporting so that the court can detect if performance data is consistent with the data submitted to justify the budget.

While it is evident that trial court leaders must assume responsibility for expenditure management, it does not

necessarily follow that they must institute a special trial court monitoring system. Most courts rely on periodic reports from the executive branch to keep track of their expenditure of budgeted funds, and such reports may suffice for monitoring purposes.

The problem with reliance on executive branch reports is that they may not be timely or current and that they often array data in a manner which is useless for purposes of judicial administration. Very often, a trial court may only need to monitor certain more troublesome expenditure items and may, therefore, find little utility in a print-out which lumps these items in broad categories and is several weeks out-of-date by the time it is issued.

As a result, many trial courts will find it useful to maintain a simple internal system of budget monitoring which supplements the executive branch reports by providing:

- current data on expenditure items so that a pre-audit system for expenditure approval can be effective;
- focus on the expenditure items of special management concern to trial court leaders;
- the level of detail required by the court; and
- a cross-check on executive branch figures.

2. **Instituting a monitoring process.** There are certain standard steps to institute a monitoring process, as follows:

- to determine if all expenditures, or only certain types of expenditures, are to be monitored; if the latter, to define the specific expenditure items;
- to determine the types of information required for monitoring purposes and the sources of such information;
- to determine the best methodology for obtaining the information, including any special forms or procedures;
- to link the process to a system of pre-audit or expenditure approval, so that expenditure data passes through some control point;
- to delegate administrative responsibility for monitoring to some individual or office;
- to define the types of reports to be made by this individual or office; and
- to incorporate the above in a court directive.

3. **Elements of monitoring.** A monitoring process can be very simple and still be very effective. Its internal elements are not complex.

a. *Central monitoring point.* Central monitoring implies a degree of centralization which may not exist in some courts. In an administratively fragmented court, monitoring may have to be decentralized. Generally,

⁴⁴In a court with a quarterly budget allotment, money flow may vary somewhat from quarter-to-quarter.

however, it is preferable that monitoring data pass through one point (for example, a trial court administrator's office).

The type of data passing through this point might include:

- copies of the payroll;
- requests for permission to make a purchase of goods and services;
- requests for permission to start a formal process of procurement for major contract services;
- proposed contracts for goods and services;
- copies of executed contracts, purchase orders and requisitions; and
- executive branch reports on expenditures.

The fact that the above data are collected at one point does not mean that contracting, purchasing or fund accounting are carried out by the monitor.⁴⁵ It is only necessary that the monitor regularly receive copies of all documents on expenditures or encumbrances and that requests to make expenditures or enter into contracts be routed through the monitor for high-level administrative approval.

b. *Recording of monitoring data.* A monitor may be directed to keep track of all expenditures,⁴⁶ but very commonly he or she may be asked to monitor only a few items which require special control, most commonly legally mandated expenditures (such as appointed counsel fees, capital expenditures and contractor services).

A monitor would normally maintain current expenditure and encumbrance records so that decisions on purchases or acquisitions could be made on the basis of these data. These records may be no more than a manual supplement to executive branch reports with the monitor periodically reconciling his or her records with executive branch records. This type of periodic cross-check often proves to be helpful in protecting the court against vagaries in the governmental accounting system.

The typical data items in a budget monitoring system are:

- appropriations for the budget category being monitored;

- transfers (i.e., transfers of funds from, or to, the particular fund being monitored);
- expenditures to date (and possibly expenditures to date within quarters if the court is on a quarterly allotment system);
- encumbrances, normally contractual obligations to expend budgeted funds;
- balance of unexpended, unencumbered funds; and
- percentage of budgeted funds remaining.

The foregoing data can be recorded for a number of small line items or for only major budget categories. This is simply a function of the desired level of management detail.

The foregoing data can also be broken down by organizational unit or compiled for the court as a whole. In most large courts, separate organizational treatment would be more useful, as illustrated in Appendix T by reference to a clerk's office.

The table in Appendix T represents a fairly simple and standard mode of monitoring. It may not suffice for monitoring a complex and variable type of expenditure where the court must have a greater level of detail at its disposal. Thus, for example, a trial court may decide that indigent defense fees must be monitored by individual judges and by type of proceeding. Appendix U illustrates a detailed monitoring form for indigent defense and further illustrates that there is no set model for monitoring. The key control factors have to be identified and built into the system as required.

c. *Monitoring reports.* There is no important purpose served by deluging trial court leaders with monitoring reports. A principal purpose of monitoring is to detect problems in their early stages so that exception reporting is normally sufficient. An exception report simply indicates expenditure patterns which suggest an incipient problem. Such a report may also contain some brief background data. Appendix I illustrates such a report within the context of a budget guideline.

4. *Conclusion.* Monitoring is not the last step in a linear process, but a recurring function in a cyclical process. The budget process is, or should be, a year-round management role, rather than a mechanical function of securing funds. This has been the essential point of chapter 3.

⁴⁵ These functions are very often carried out in the executive branch on behalf of the court.

⁴⁶ Some trial courts handle all fund accounting for their own operations, in which case a special monitor is superfluous.

APPENDIX A

BUDGET GUIDELINE—CHRONOLOGY OF BUDGET PROCESS

The four budgets covering 1978-79 operations of the Court (Circuit Court, Clerk's Office, Juvenile Division and Adult Probation) will undergo review by the court in the period March 1-20 in preparation for budget submission on April 15.

The following schedule will be observed:

- each of the four budgets must be informally reviewed with the Court Budget Office prior to 2/15;
- proposed budget submissions must be submitted to the Court Budget Office prior to 3/1;
- court review completed by 3/20;
- further discussion with division heads and budget revisions prior to 4/1; and
- final budget review prior to submission on 4/15.

APPENDIX B

BUDGET GUIDELINE—COURT PRIORITIES FOR FY 1978-79

The court, in response to the request of the County Manager, will attempt to limit budget increases to less than 4% for FY 1978-79.

To stay within the prescribed limit, it is requested that budget submissions on behalf of the court:

- not include funding for any new positions not previously authorized by the court; and
- not include increases, other than those attributable to inflation or automatic increases, except:
 - staff, facility or other expenses in connection with the new jury trial courtroom;
 - staff and other expenses related to implementation of the speedy trial rule.

Request for increased funding, other than those items noted above, will be considered for funding only after priority needs are met and should be submitted separately from the basic budget submissions.

APPENDIX C

LINE ITEM BUDGET FOR SUPERIOR COURT, MARICOPA COUNTY, ARIZONA

FUND:	FUNCTION:	DEPARTMENT:	DIVISION:	DEPT. NO.		
GENERAL	PUBLIC SAFETY & LAW ENFORCEMENT	SUPERIOR COURTS		441		
Account No.	Position	No. of Employees			Salary Range	Amount
		Cur.	Add'l.	Tot.		
PERSONAL SERVICES:						
6-0100	Salaries & Wages					
	0190 Judge	35	+2	37	F.R.	\$ 593,804
	1310 Bailiff	38	+2	40	20	378,828
	1312 Commissioner Aide	5		5	21	53,643
	1321 Calendar Clerk I	11	+1	12	16	82,035
	1322 Calendar Clerk II	2		2	18	15,642
	1323 Calendar Clerk III	2		2	20	19,531
	1324 Calendar Clerk Supervisor	3		3	22	36,442
	1360 Asst. Jury Commissioner	1		1	18	10,005
	1365 Jury Commissioner	1		1	31	18,886
	1390 Court Reporter	41	+2	43	35	792,313
	1418 Interpreter I	2		2	18	17,285
	1419 Interpreter II	1		1	19	9,526
	1422 Clerk II	3		3	14	20,280
	1423 Clerk III	3	+1	4	17	32,888
	1442 Law Library Technician	1		1	19	8,504
	1455 Administrative Aide	1		1	21	11,586
	1922 Typist II	12	+2	14	15	102,628
	1923 Typist III	1		1	18	10,005
	1934 Judicial Secretary	36	+2	38	22	413,964
	1940 Legal Steno	4	+1	5	20	45,438
	1962 Secretary II	1		1	17	8,140
	1965 Administrative Secretary	2		2	23	24,918
	5141 Administrative Assistant I	0	+2	2	24	16,968
	5142 Admin. Assistant II	1		1	27	13,395
	5143 Administrative Assistant III	2		2	32	31,075
	5149 Assistant Court Administrator	1		1	36	19,822
	5150 Court Administrator	1		1	41	30,742
	5268 Law Library Cataloger	1		1	28	14,789
	5270 Law Library Supervisor	1		1	28	13,844
	5275 Law Library Director	1		1	41	26,562
	5450 Court Commissioner	6		6	F.R.	158,371
	5480 Probate Interviewer	2		2	22	22,651
	5970 Family Counselor I	8	+1	9	30	143,873
	5971 Family Counselor II	2		2	32	38,709
	5975 Dir. of Conciliation	1		1	35	22,942
	Salary Increases					111,101
	SUB-TOTAL	233	+16	249		\$3,371,135
6-0200	Overtime					900
6-0300	Temporary Help					56,306
6-0510	Jury Fees & Expense					679,000
	TOTAL PERSONAL SERVICES					\$4,125,341
SERVICES & SUPPLIES:						
7-1100	Communications					\$ 119,400

FUND:	FUNCTION:	DEPARTMENT:	DIVISION:	DEPT. NO.		
GENERAL	PUBLIC SAFETY & LAW ENFORCEMENT	SUPERIOR COURTS		441		
Account No.	POSITION	No. of Employees			Salary Range	Amount
		Cur.	Add'l.	Tot.		
7-1200	Insurance					200
7-1300	Memberships					4,700
7-1600	Professional & Spec. Svcs.—Legal					157,780
7-1800	Rents & Leases-Bldgs. Grnds, & Equip.					82,620
7-1900	Support & Care of Persons					400,000
7-2000	Transportation & Travel					30,348
7-4200	Clothing & Personal Supplies				\$	2,100
7-4400	General Services & Supplies					350
7-4500	Maintenance Contracts & Repairs					5,230
7-4800	Office & Educ. Supplies & Expense					83,300
7-4900	Other Supplies & Expense					150
TOTAL SERVICES & SUPPLIES						\$ 886,178
9-9000	LABOR & EXPENSE TRANSFERS:					\$ 120,549
	Funded By Anti-Recession Payments					(111,101)
APPROVED FISCAL BUDGET						\$5,020,967

APPENDIX D

ILLUSTRATIVE PROGRAM BUDGET STRUCTURE FOR A TRIAL COURT

Purposes	Sub-purposes
To Adjudicate Criminal Cases	To adjudicate felony cases
To Adjudicate Civil Cases	To adjudicate misdemeanor appeals
	To adjudicate major civil cases
	To adjudicate minor civil cases
	To adjudicate domestic relation cases
To Adjudicate Juvenile Cases	To adjudicate delinquency, dependency and neglect cases
	To adjudicate crimes against juveniles
To Provide Alternatives To Formal Adjudication	To divert adult offenders
To Provide Social and Rehabilitative Services	To divert juvenile offenders
To Provide Security	To provide adult probation services
	To provide juvenile probation/counseling services
	To handle prisoner transport
	To provide courtroom and building security
To Provide Administrative Support to Adjudication	To provide standard management services
To Provide Clerical Support To Adjudication	To provide information technology services
	To provide records management
	To provide courtroom services

APPENDIX E

BUDGET GUIDELINE—PROGRAM BUDGET

In FY 1978-79, the court will institute a simple budget procedure to facilitate: (1) comparison of budget requests to court objectives and priorities; (2) projection of expenditures over a multi-year period to measure future trends and impacts; and (3) measurements of budget requests against workload and performance.

The budget procedure will be built around the eight major objectives of the court: (1) to adjudicate criminal cases; (2) to adjudicate civil cases; (3) to adjudicate juvenile cases; (4) to provide alternatives to formal adjudication; (5) to provide social and rehabilitative services; (6) to provide courtroom and building security; (7) to provide administrative support to adjudication; and (8) to provide clerical support to adjudication.

For each objective, there will be prepared and disseminated a Budget Objective Form containing: (1) a general description of the objective and its origin; (2) the specific sub-objectives to be achieved over the next year; (3) space to fill the specified annual target and workload data relating to the objective over the period 1976-80; and (4) space to fill in budget resource to be allocated or actually spent to achieve the objective during the same period.

Each division shall, by reference to the program description and sub-objectives, determine what aspects of its work activity and what portions of its budget have been or will be expended on the objective. For purposes of making this allocation, estimates may be used and organizational lines ignored. Each division shall fill in only those forms corresponding to objectives to which it contributes. Attached for illustrative purposes is a completed Budget Objective Form.

BUDGET OBJECTIVE FORM

Objective—Adjudication of Criminal Cases

General Description of Objective

This objective encompasses all phases of criminal case processing from arraignment to sentencing, specifically preliminary criminal processing, trial of misdemeanor appeals, trial of felonies, sentencing, sentence violation hearings and all miscellaneous criminal proceedings. The objective is derived from the jurisdictional provisions in Art. III, 15, State Const.; 27 Code 1-10.

Specific Sub-Objectives

The criminal adjudication objectives of the court are to: try misdemeanor appeals within 60 days of appeal and felonies within 120 days of indictment; to bring all arrested persons before a judicial officer within 24 hours; and to reduce backlog to less than 300 cases.

Targets and Work Outputs

	1967-77	1977-78	1978-79	1979-80
Felonies Disposed	1012	1060	1070	2000
Misdemeanor Appeals Disposed	730	710	750	800
Avg. Time to Disposition (Days)				
Felonies	163	142	130	120
Misdemeanors	110	84	70	60
Pending Cases Year End	400	420	350	200

Resources

	\$	\$	\$	\$
Personnel	1976-77	1977-78	1978-79	1979-80
			EST	EST
• Judges	143,000(4)	145,000(4)	145,000(4)	180,000(5)
• Reporters	100,000(5)	105,000(5)	126,000(6)	146,000(7)
• Court Room Clerks	70,000(6)	81,000(7)	85,000(7)	100,000(8)
• Court Officers	43,000(4)	46,000(4)	55,000(5)	66,000(6)
Non-Personnel	38,000	41,000	43,000	50,000
<i>TOTALS</i>	\$394,000	\$418,000	\$454,000	\$542,000

APPENDIX F **BUDGET GUIDELINES—CHECKLIST OF KEY** **BUDGETARY ITEMS**

To ensure the adequacy of budget submissions in areas which have proved troublesome in the past, budget submissions to the court should be accompanied by a certification that these key budgetary items have been reviewed and found adequate. The submission shall be made on the following form.

BUDGET CHECKLIST			
<u>Budget Item</u>	<u>\$ Amount</u>	<u>Nature of Review Conducted</u>	<u>Finding of Adequacy</u>
Juror Fees			
Capital Expenditures			
Certified By: _____		Date: _____	

APPENDIX G **BUDGET GUIDELINE—ADVANCE APPROVAL OF TRAVEL ITEMS** **IN THE BUDGET**

Before inclusion of travel costs in the budget submission to the court, advance approval from the Court Budget Office should be sought and obtained. Approval will be based upon submission of cost data in the following categories:

<u>Category of Travel</u>	<u>Basis of Cost Estimate</u>
Local Travel	Average monthly mileage per judge; and Estimated monthly mileage and public transportation costs for all non-judicial employees.
In-State, Out-of-County	Number of trips by purposes and probable destinations, mileage or public transportation fare per diem.
Out-of-State Travel for Judicial Education	Number of trips by likely destination, type of course, transportation per diem.
Out-of-State Travel for Conferences or Meetings	Number of trips by purpose and likely destinations, transportation per diem.

APPENDIX H

BUDGET GUIDELINE—INCREASE JUSTIFICATION

Any budget increase which results in addition of new personnel, a capital expenditure in excess of \$500 or a percentage increase of 5% or more in an existing line item must be explained in writing, pursuant to the illustrated format indicated below:

BUDGET INCREASE JUSTIFICATION				
Division/Program: Pre-trial Release				
<u>Line Item</u>	<u>1977-78</u>	<u>1978-79</u>	<u>\$</u>	<u>%</u>
		Proposed	<u>Increase</u>	<u>Increase</u>
Personnel	27,000	108,000	81,000	
Rentals	2,000	8,000	6,000	
Services		—	—	
Supplies	750	3,000	2,250	
Equipment	250	1,000	750	
	<u>30,000</u>	<u>120,000</u>	<u>90,000</u>	<u>300%</u>

Justification:

The county assumed the cost of the pre-trial release program from the federal government starting in the last quarter of the budget year. \$30,000 was budgeted. Annualization of the program this year requires an appropriation of \$120,000, an increase of \$90,000.

APPENDIX I

BUDGET GUIDELINE-MONITORING REPORT

At the end of each month, the court budget officer shall submit a report to the court on the status of the courts's budget. This report shall specify any deviations in expenditure patterns which indicate a pattern of overspending or underspending. The deviations shall be in the form of an exception report, as illustrated below:

MONITORING REPORT

As of March 31, the following deviations from expected expenditure patterns have occurred:

- with three months left in the fiscal year, available funds are almost depleted in the following categories:
 - out-of-state travel
(7% of funds remain)
 - contract services
(5% of funds remain)
 - due to hiring lags, personnel expenditures are running well below estimates; only 69% of personnel funds have been expended with 75% of the fiscal year completed.
-

APPENDIX J

ILLUSTRATIVE PERFORMANCE MEASURES FOR BASIC ADJUDICATION FUNCTIONS

Budget Area	Measures				Comment
	Input	Output	Effectiveness	Efficiency	
Adjudication of Criminal Cases	Indictments filed. Misdemeanor appeals filed.	Indictments, misdemeanors disposed. Trials, hearing conducted; court days.	Average case time. Dispositions per judge Pending cases.	Average cost per criminal case.	Due to legal pressure to move each criminal case to disposition, inputs are usually an adequate measure of criminal workload.
Adjudication of Civil Cases	Filings, cases set for trial	Trials conducted; court days. Cases disposed.	Dispositions per judge Pending cases.	Average cost per civil case.	Civil cases may languish. The number of trial-ready cases may be a better measure of workload than filing.
Adjudication of Juvenile Cases	Referrals; Petitions.	Informal dispositions. Adjudications	Average time for adjudicated case. Dispositions per judge, informal and formal Pending Cases.	Average cost per juvenile case.	Due to the high number of informal dispositions, which may not involve a judge, distinctions must be made between informal and formal elements of workload.

APPENDIX K

PERFORMANCE MEASURES FOR VARIOUS TRIAL COURT COMPONENTS AND PROGRAMS

Trial Court Component	Measure	Comment
Social Programs	<ul style="list-style-type: none"> • persons screened • persons interviewed • persons under supervision (avg. level) • reports to court • court days 	<p>Probation, diversion and various social programs involve personnel contact and attendance upon the court either in person or by written submission. These are reflected in the measures.</p>
Clerical Functions	<ul style="list-style-type: none"> • pending cases • new cases processed • filing transactions • case closings • cash transactions handled • clerk courtroom days • scheduled trials 	<p>These measures deal in a gross way with record keeping activity, bookkeeping activity, court room clerking and calendaring.</p>
Court Reporting	<ul style="list-style-type: none"> • courtroom days • transcripts 	<p>The percentage of cases appealed is a key workload factor. In other respects, reporters are linked to judicial activity.</p>
Juries	<ul style="list-style-type: none"> • jury questionnaires processed (if used) • jurors summoned • jurors qualified • juror days • jury trials • sequestered trial days 	<p>There are two aspects: (1) work involved in jury administration, which may not be great and (2) costs involved in payments to jurors or for meals, lodging and travel.</p>
Clerk-Typists	<ul style="list-style-type: none"> • new docket pages prepared • pre-sentence investigation typed • correspondence typed 	<p>The examples may not be germane to each court, but there are inevitably some standard work outputs for clerk-typists.</p>
Electronic Data Processing	<ul style="list-style-type: none"> • reports generated • machine time 	<p>Various other administrative functions could be included as appropriate.</p>
Personnel Administration	<ul style="list-style-type: none"> • new employee processed • interviews • tests • total personnel transactions 	
Microfilm	<ul style="list-style-type: none"> • records microfilmed 	

APPENDIX L **ILLUSTRATIVE BUDGET-WORKLOAD COMPARISON**

	1976	1977	%	1978 (EST)	%
Workload:					
Filings	950	1010	+6	980 (est.)	-3
Trial days	300	310	+3	295 (est.)	-5
Operational \$	\$450,000	\$480,000	+7	\$540,000 (requested)	+8

Note: The fact that the above chart shows a discrepancy between the percentage budget increase requested and workload trends does not necessarily mean that a budget request is unjustified. For example, increases in employee compensation may account for such a discrepancy.

APPENDIX M

ILLUSTRATIVE MULTI-YEAR BUDGET

Objective	Sub-Objective	1977-78		1978-79		1979-80	
		\$(000)	Workload	Est. \$(000)	Est. Workload	Est. \$(000)	Est. Workload
Adjudication of Criminal Cases	Adjudication of Felonies	328	1060 cases dis- posed	334	1070 cases dis- posed	345	2000 cases dis- posed
	Adjudication of Misdemeanor Ap- peal	100	730 cases dis- posed	120	710 cases dis- posed	126	750 cases dis- posed

APPENDIX N

ILLUSTRATIVE ANALYSIS OF RESOURCE ALLOCATION BY OBJECTIVE

Objective	Sub-Objective	Budget Estimates				% of Total
		Personnel	Materials	Supplies/Services	Other	Total
Adjudication of Criminal Cases	Felony Adjudication	262,000	22,000	10,000		294,000
	Misdemeanor Appeal Adjudication	80,000	20,000			<u>100,000</u>
	Subtotal					394,000
Adjudication of Civil Cases	Major Case Adjudication	280,000	15,000			300,000
	Minor Case Adjudication	<u>101,000</u>	<u>10,000</u>			<u>111,000</u>
	Subtotal					411,000

APPENDIX O

MEMO

TO: Presiding Judge

FROM: Budget Office

RE: Analysis of Circuit Court Budget for FY 1978-79

SUMMARY DESCRIPTION OF PROPOSED BUDGET

The 1978-79 budget request for the court is \$2,687,000. This represents an increase of \$169,000 (or 6.7%) over the budget request for this year. The principal reason for the increase, in addition to built-in increases and inflation, are:

- addition of two court reporters to a central pool;
- an increase in health insurance costs for county employees;
- planned capital acquisitions to furnish a new trial court facility; and
- a great increase in juror costs, based on experience of a deficit in last year's jury budget.

Spending Trends in Court

The spending trend in the circuit court since 1975 is as follows:

Object of Expenditure	Expenditures 1975-76	Expenditures 1976-77	% +-	Budgeted 1977-78	% +-	Requested 1978-79	% +-
<i>Personnel</i>							
Judicial	540,000	540,000	-	700,000	29.6	700,000	-
Salaries							
Jud. Secretaries	202,000	209,000	3.4	228,000	9.0	230,000	.08
Court Reporters	300,000	318,000	6.0	384,000	20.7	432,000	12.5
Court Officers	275,000	281,000	2.1	291,000	3.5	308,000	5.8
Other Personnel	99,000	111,000	12.1	113,000	1.8	120,000	6.1
Fringe Benefits	131,000	144,000	9.9	152,000	5.5	167,000	9.8
Temporary Help	30,000	30,000	-	32,000	6.6	37,000	15.6
Subtotal	1,577,000	1,633,000	3.5	1,900,000	16.3	1,994,000	4.9
<i>Services/Supplies</i>							
<i>Equipment</i>							
Maintenance	9,500	9,800	3.1	10,400	6.1	11,000	5.7
Capital Expend.	37,000	45,000	21.6	43,000	4.5	54,000	25.5
EDP Cost to Central Data Proc.	-	-	-	24,000	-	31,000	29.1
Rents & Leases	24,000	27,000	12.5	38,000	40.7	40,000	5.2
Supplies	2,400	3,100	29.1	3,000	-3.3	3,000	-
Phone & Utilities	7,100	7,200	1.4	7,400	2.7	7,800	5.4
Other	6,500	6,800	4.6	7,000	2.9	7,000	-
Subtotal	86,500	98,900	14.3	132,800	34.2	153,800	15.8
<i>Travel</i>	25,000	25,000	-	28,000	12.0	30,000	7.1
<i>Jury Costs</i>							
Juror Fees/Travel	341,000	365,000	7.0	398,000	9.0	446,000	12.0
Jury Commission	31,000	32,000	3.2	36,000	12.5	40,000	11.1
Juror Lodging/Food	11,000	14,000	27.3	24,000	41.6	24,000	-

Object of Expenditure	Expenditures 1975-76	Expenditures 1976-77	% + -	Budgeted 1977-78	% + -	Requested 1978-79	% + -
Subtotal	383,000	411,000	7.3	458,000	11.4	510,000	11.3
Total	2,071,500	2,167,900	4.6	2,518,800	16.1	2,687,800	6.7

The increase requested for the 1978-79 budget year is down sharply from 1977-78 (16.1% to 6.7%). The budget requested for 1977-78 reflected the costs of a \$10,000 pay increase for judges (of which the county pays 50%), an increase in judgeships (from 18 to 20) and additional support personnel for the new judges. This year's budget proposes increases closer to those requested in past years. However, the proposed 6.7% increase still exceeds the 5% ceiling imposed by the County Manager.

The personnel item which has accounted for most of the high increases over the last four years is court reporter salaries. The average salary has increased from \$16,500 to \$18,000 and the number of reporters from 18 to 24. The creation of a two-person central pool in 1977-78 proved successful as a backup to the 20 reporters assigned to individual judges. Two additional pool reporters are requested this year.

Four major non-personnel costs have shown the sharpest upward trend over the last few years:

- capital expenditures, due to purchase of electronic equipment and furnishing of outlying facilities; even with use of revenue-sharing funds for some acquisitions, the 1978-79 budget proposal shows a 25.5% increase;
- the introduction of a court information system last year required \$24,000 in new costs for services and machine time from the county computer system; the estimated charges for 1978-79 are \$31,000, an amount which will increase to \$45,000 or \$50,000 in 1979-80 when teleprocessing capability is added;
- rental costs for outlying facilities have stabilized this year, but remain one of the larger non-personnel costs; and
- jury costs remain the most troubling item, with operational costs going up annually at a high rate with the proposed increase for this year being 11.3%.

Comparison in Workload of Court and Budget

The workload of the court over the period of analysis can be measured by: indictments filed, disposed and pending at end of year; civil cases filed, disposed and pending at end of year; jury trials; and transcripts prepared and pending at end of year.

Workload Measures	1975-76	1976-77	% + -	1977-78 (Est)	% + -	1978-79 (Est)	% + -
Indictments: Filed	2,500	2,800	12.0	2,950	5.3	3,200	8.4
Disposed	2,600	2,750	5.7	3,000	9.9	3,300	10.0
Pending 12/31	407	457	12.2	407	-10.9	307	-24.5
Civil: Filings	9,500	9,800	3.1	10,600	8.1	11,000	3.7
Cases Disposed	7,500	8,500	13.3	10,100	18.8	11,000	8.9
Cases Pending 12/31	3,500	4,800	37.1	5,300	10.4	5,300	-
Jury Trials 12/31	318	343	7.8	350	2.0	360	2.8
Transcripts on Appeal	118	130	10.1	148	13.8	165	11.4
Pending Transcripts 12/31	30	47	56.7	55	17.0	50	-9.0

The workload figures indicate that:

- the caseload of the court has increased on a fairly steady basis and has been in proportion to the rate of budget increase;
- the court has stabilized its backlog with the addition of two judges and projects some reduction in backlog for 1978-79;

- the growing backlog in transcripts can be reduced in 1978-79 by the hiring of two reporters; and
- expenditures for jury trials have increased markedly, despite a very minor increase in jury trials.

	% Increase in Jury Trials	% Increase in Budgets
1976-77	7.8	7.3
1977-78	2.0	11.4
1978-79	2.8	11.3

The budgetary increase for juries is based on the juror calls for last year and will be hard to justify by workload increase.

Personnel Trends

The number of full-time, non-judicial personnel employed by the court over the period of analysis is indicated below:

Position	1975-76			1976-77			1977-78			1978-79		
	Pos. Auth.	Avg. Pos. Funded	Avg. Salary (1000)	Pos. Auth.	Avg. Pos. Funded	Avg. Salary (1000)	Pos. Auth.	Avg. Pos. Funded	Avg. Salary (1000)	Pos. Auth.	Avg. Pos. Funded	Avg. Salary (1000)
Judicial Secretaries	18	16.2	11.3	18	16.5	11.5	20	16.6	11.4	20	16.5	11.5
Court Reporters	18	17.7	16.6	18	17.6	17.6	22	22	17.4	24	21.5	18.0
Court Officers	25	22.3	11.0	25	22.1	11.2	25	22.0	11.6	26	22.5	11.8
Law Clerks	2	2	15.0	2	2	15.0	2	2	15.0	2	2	15.0
Clerk-Typists	3	2.8	7.7	3	2.7	8.0	4	3.6	8.3	4	3.6	8.5
EDP Coding Clerk							2	2	9.0	2	2	9.3
Administrator	1	1	21.0	1	1	21.0	1	1	21.0	1	1	23.0
Administrative Secretary	1	1	10.5	1	1	10.5	1	1	11.0	1	1	11.0

The court has held the line on new hires and salaries quite well and has operated near full employment levels except in judicial secretary and court officer positions. Turnover is high on judicial secretary positions. Court officer positions have not been filled in past years to effect budget savings, last year to cover a deficit in juror costs.

The more stringent security measures introduced by the court make it doubtful that any savings can be effected in 1978-79 by leaving court officer positions unfilled.

The key increase in both numbers and salary are court reporters, which is the section of the personnel budget most subject to challenge.

Justifications of Budget Increases

Indicated below are the principal budgetary increases requested for 1978-79 and the accompanying justification:

Item	\$ Increase	% Increase	Justification
Court Reporter Salaries	48,000	12.5	Appeals have been increasing at an annual rate of more than 10% per year. Transcript backlog almost doubled between 1975(33) and 1977(55). The addition of two reporters can cut the rate of backlog accumulation from 56% to 17%. Two new reporters are needed to reverse the backlog trend, since it occupies almost two reporters per year to fill in for reporters on leave or vacation. The number of transcripts per reporter increased from 6.5 to 7.4 from 1975 to 1977.
Court Officers	17,000	5.8	Despite adding two judges in 1977-78, the court did not increase the number of court officers. Based on security experiences this year, at least one additional officer is needed for prisoner security in the arraignment court. The court is attempting to implement new security measures with only this one change.
Other Personnel	7,000	6.1	Clerk-typists and coding clerks are covered by the county personnel system and received annual merit increases up to 5%. The court administrator receives a salary increase of \$2,000, his first increase in three years.
Fringe Benefits	15,000	9.8	This increase is attributable to increases in FICA contribution and to a 10% increase in premiums for employee health benefits, amounting to \$11,200 annually.
Capital Expenditure	11,000	29.1	This increase is attributable entirely to the cost of outfitting the trial court room, juror deliberation room and judicial chambers in the new facility at X-VILLE; specifically public address systems, tables, chairs, book shelves, rugs, electrical and plumbing fixtures.
EDP Cost	7,000	29.1	This is an inter-governmental transfer item estimated by the county EDP Center based on estimated machine time increase of 25-30% in 1978-79.
Juror Costs	52,000	11.3	This request is based on the number of paid juror days estimated for the current year (18,000), plus a 5% increment for increased jury activity.

Comprehensiveness and Adequacy of Budget

The budget is based on several assumptions that affect its adequacy, as indicated below:

- that new rules governing security in major trials can be implemented with only one additional court officer;
- that the number of jurors called and qualified will have the same relation to the number of jury trials as it did in 1977-78;
- that recording equipment in the amount of \$112,000 for criminal courtrooms will be paid from the law library fund;
- that structural renovation of the outlying court facility in X-VILLE will be paid from the county capital fund;
- that the turnover rate and unfilled vacancies will permit savings to cover \$10, \$12,000 of the cost of two new court reporters; and
- that travel for purposes of judicial education will be paid from an LEAA grant administered by the State Court Administrator.

Subject to the above assumptions, the budget is adequate to meet court needs and

addresses all points in the check-off list developed by this office. The budget adheres to the form required by the county.

Issues before the Court

The budget presents several issues for resolution by the court:

County Manager: The court budget exceeds the budgetary limit imposed by the County Manager. The court must decide whether to seek an exception to this limit and if so, how to justify it. The court has never relied on an inherent powers position to support its budget position.

Jury Commission: The jury management practices of the Jury Commission have raised jury costs. The court has traditionally not interfered greatly in the internal management practices of the Commission. The question to resolve is whether the court can realistically defend the current requests of the Commission as part of the court budget. A possible solution is to insist upon some steps to improve jury management.

Use of Special Funds: The Law Library fund will be used as a source of funding for capital items unrelated to the operation of the law library. The use of this fund for this purpose may be subject to auditor challenge. The court might choose to rely more on the operating budget for these items.

State Court Administrator: The matching funds for LEAA funded judicial education trips have in the past been paid by the county. The county has shown increased reluctance to match these funds. The court might urge the State Court Administrator to seek state matching funds or budget new funds for matching purposes.

Staff Recommendation: It is recommended that the court adopt the budget as presented.

APPENDIX P

ILLUSTRATIVE ANALYSIS OF TRIAL COURT FUNDING SOURCES

Object Class	Object of Expenditure	Funding Sources						Total
		County General Fund	State General Fund	County Law Library Fund	County Capital Fund	LEAA Block Grants	Federal Revenue-Sharing	
Personnel	Judge salaries		800,000					800,000
	Jud. sec. salaries		200,000					200,000
	Clerical salaries	1,870,000						1,870,000
	Prof. salaries	540,000		12,000 ¹		240,000 ¹		792,000
	Fringe benefits	240,000	98,000					338,000
	Overtime	80,000						80,000
	Temporary help	85,000						85,000
	Subtotal	\$2,815,000	\$1,090,000	\$12,000		\$240,000		\$4,157,000
Non-Personnel	Capital expenditures						88,000	88,000
	Contractor services				350,000 ³			350,000
	Lease/rentals	37,000						37,000
	Supplies	27,000		18,000 ²				45,000
	Utilities	31,000						31,000
	Other	25,000						25,000
	Subtotal	\$120,000		\$18,000	\$350,000		\$576,000	\$1,064,000
	Total	\$2,935,000	\$1,090,000	\$30,000	\$350,000	\$240,000	\$88,000	\$4,733,000

(1) Salary of librarian.

(2) Law books.

(3) Construction contract for courtroom renovation.

(4) Federally-funded salaries in pre-trial release program.

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[illegible]

APPENDIX R

ILLUSTRATIVE REVENUE PROJECTION FORM

Court	Fee	Actual Revenues		Rev. Range	Projections		
		1975-76	1976-77		1977-78 Cases \$	1978-79 Cases \$	1979-80 Cases \$
Circuit	\$20 Civil Filing Fee			Upper			
				Lower			
	\$20 Fee On Felony Conviction			Upper			
				Lower			
	\$6 Fee On Civil Appeal From County Ct.			Upper			
				Lower			
	\$6 Fee On Misdemeanor Conviction			Upper			
				Lower			

APPENDIX S **ILLUSTRATIVE MULTI-YEAR COMPARISON OF EXPENDITURES AND REVENUES**

	1975-76	1976-77	1977-78	1978-79
Expenditures:				
Personnel				
Non-Personnel				
Total				
Revenues:				
Civil Case Fees				
Criminal Case Fees				
Fines/Forfeiture				
Other Fees, Costs				
Total				
Difference Between Expenditures and Revenues				
Revenues as a Percentage of Expenditures				

APPENDIX T

SAMPLE MONITORING SHEET

Program/Organizational Unit-Clerk's Office

Date—March, 1978

Financial Data	Items Being Monitored			
	Temporary Personnel	Contractual Services	Supplies and Materials	Equipment
Appropriations				
Transfers + -				
Revised Funds				
Expenditures to Date				
Encumbrances				
Balance				
% Of Available Funds Remaining				

% of Time Remaining

APPENDIX U **SAMPLE INDIGENT DEFENSE MONITORING FORM**

Program/Organizational Unit—Indigent Defense					Date: March, 1978	
Judge	\$ Amount Counsel Fees Approved to Date				Number of Appointments	Avg. Fee
	Preliminary Proceedings	Trial/Trial Preparation	Other	Total		

Totals

Fees Approved to Date:	<input type="text"/>	\$ Amount of Pending Vouchers	<input type="text"/>
Remaining Funds:	<input type="text"/>	% of Total Funds Remaining	<input type="text"/>

Fees Approved In Excess of \$____ Per Case:

CASE	JUDGE	\$	CASE	JUDGE	\$
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END

END