

“Dos” and “Do Nots” for State Courts Facing Budget Challenges



A Pandemic Resource from CCJ-COSCA

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A brutal financial reality awaits state and local officials in the wake of the COVID-19 pandemic. Significant budget cuts are almost a certainty in most jurisdictions. To prepare state court leaders for the challenges to come, this short document reflects on some of the lessons that state courts learned (many, the hard way) from the Great Recession that started in 2008. While more detailed guidance is being developed, we wanted to share some initial thoughts on what you can and should be doing now—and pass along a few words of advice on what we know probably won't work.

DO

- **Acknowledge financial reality.** In any initial conversations with other branches of government, indicate a willingness to share in the sacrifice—and in the solution. This may increase the likelihood of allowing you to control the nature of future cuts.
- **Implement budget reductions measures now.** Demonstrate awareness of the seriousness of the situation by immediately freezing hiring, imposing limits on travel, and curtailing discretionary spending. Document these changes, while highlighting that your success in maintaining core operational functions.
- **Highlight your court's COVID response.** Emphasize that courts are meeting their Constitutional obligation to open courts, and communicate specifics about what you have done to keep courts functioning in the pandemic.
- **Identify your COVID-driven costs.** Maintain financial and accounting records that will allow you to document what new costs have been incurred—software licenses, PPE, structural adjustments, etc. Having this carefully documented is potentially useful for a variety of funding or cost-reimbursement scenarios.
- **Familiarize yourself with the budget cycle, people and players NOW.** While you are likely already aware of the normal budgeting process, step-up your plans to engage in legislative and executive branch outreach. Reaffirm critical relationships. Have conversations in person, whenever possible. The earlier that engagement starts, the better.
- **Prepare documentation** that highlights what your court has done in recent years to achieve efficiencies, implement new technology, and adopt performance measures.

- **Begin to prepare your messaging.** Your message may vary depending on your state or locality, but could include: the role that courts play in providing critical services; the role courts play supporting public safety; or the role that courts play in supporting the economic engine of your state. In all cases, the message should focus on how strong courts benefit the community.
- **Harness the power of your stakeholders** and develop surrogates. Take time to identify effective, credible messengers in your community who can be concrete about the real harms that will befall people if cuts to the courts are draconian. Remember, courts will be competing with public safety and health and human services stakeholders, so develop “real world” allies who can articulate why they need a functioning court system.
- **Engage with the media.** An effective longer-term plan will invariably require public support. If you are already engaging with the media concerning COVID response issues, you will be even better prepared to communicate about funding issues when they arise.

DO NOT

- **Do not demand funding based on being an “equal” branch of government.** One of the biggest lessons from the Great Recession was that courts should not carry a message of expectation or entitlement.
- **Do not talk about damage to the courts as an institution.** Similar to the first “do not,” talking about the integrity of the courts or judicial independence will fall on deaf ears. They are not effective messages in good days, and certainly not in an economic crisis.
- **Do not talk in the abstract.** Instead, be specific about how citizens will actually be impacted by budget cuts.
- **Do not cannibalize court colleagues.** Depending on your jurisdiction and funding structure, it may be tempting to blame failings on other courts in your area. History shows this is ineffective, and only results in lower funding for all. Work to harmonize your messages with colleagues, instead.
- **Do not assume that legislators know what courts do.** Do not be surprised if you discover that most members of the legislature lack an understanding of the services courts provide. Especially with fewer lawyer-legislators than in the past, it is important to take the time to inform them on services delivered, rights protected, performance measures met, and efficiencies gained.