

Who Pays? Challenges of State Funding in Urban Minnesota Courts

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Abstract

“The whole power of the judiciary is the confidence the people have in it.”
Honorable Kathleen Blatz, Former Chief Justice of the Minnesota Supreme Court.

The mission of the Minnesota Judicial Branch is to provide justice through a system that assures equal access for the fair and timely resolution of cases and controversies. The Minnesota Court System sees approximately 2 million new cases annually come through its courts, so even if not directly involved in a case, most Minnesotans know someone who is. Minnesota’s approach to funding its trial courts has significant impacts on both its mission and those it serves. Different states use different mixes of state and local funding. For most of Minnesota’s history, county boards funded the courts. Starting with a 1990’s pilot program, the state began taking over court funding district by district. By July 2005, Minnesota courts were fully state funded so that all citizens of Minnesota have access to similar levels of judicial services, regardless of where they live, to give meaning to the principal of equal justice under the law.

This paper examines and evaluates Minnesota’s state funded court system and where some of the funding questions between the state and counties remain. Are Minnesota courts better funded under a statewide model? Questions have arisen as courts have spent the past eight years cutting staff and services. Caseloads have risen, the needs and requests from litigants have become more prevalent and complex and the competition for scarce state resources are a constant struggle.

A 2008 study conducted by the Justice Management Institute - *Adequate, Stable, Equitable, and Responsible Trial Court Funding: Reframing the State vs. Local Debate* is reviewed. This case study approach was used to examine how three states funded their trial

courts. In particular, the case studies revealed how this arrangement impacted four key dimensions of funding: 1) the adequacy of funding, 2) the stability of funding, 3) the equity of funding across trial courts in a state, and 4) accountability for the fiscal management of trial courts. The findings suggest there is no strong evidence that trial courts are more adequately funded either with primary state funding or primary local funding.

The experiences of the two states reliant upon state funding demonstrate that some unique local needs may be discounted or ignored. Tensions arose as a result. While the findings indicate that neither state nor local governments provide more stable or predictable funding for trial courts, inflexible funding appears to suppress innovation and risk-taking in trial courts with regard to new programs, service delivery models, or business practices.

Additionally, to further evaluate perspectives on state funding and its challenges, interviews with five metropolitan court administrators are conducted as a follow-up to the case studies. These interviews inform the study with regard to budget concerns within the context of Minnesota.

The research findings indicate that, after the initial transition to state funding, Minnesota districts continue to have both county and state budgets from which various court expenses are paid. Several distinct areas of questions have come up as a result of receipt of funding from two separate governing bodies. The interviews with administrators indicate that expenses routinely present where there are questions about which budget they should be paid out of - county or state? The expenses most called into question are in the area of facilities, and represent issues such as: Who pays? When should remodeling and repairs take place? What about baseline court security requirements? Ambiguity about local or state payment is prevalent and clarification in Minnesota statutes is recommended. If an adequately *funded*

judiciary is a cornerstone to guaranteeing public safety and the rule of law, county standards for court facilities and security requirements need to be established between local and state leadership. It is therefore this author's conclusion that formally evaluating state funding in Minnesota, county by county, and applying lessons learned from the case studies to evaluate court accountability in relation to spending, would be a healthy step for the Minnesota Courts.

Introduction

Overview of State Court Structure

Minnesota currently has 289 District Courts who hear everything from traffic tickets, to civil and family conflicts, to first degree murder trials. Some district courts may have separate divisions, such as criminal, civil, probate, family, and juvenile courts. Each year, there are about 2 million cases filed in Minnesota's district courts. District courts are located in each of the state's 87 counties and are divided among ten judicial districts for administration purposes. Each district is made up of two to 17 counties, with the exception of the Second District (Ramsey County) and the Fourth District (Hennepin County). Each district is managed by a chief judge and assistant chief judge, assisted by a judicial district administrator. A court administrator is responsible for the day-to-day operations in each county. The Minnesota Judicial Branch is a fully state funded system.

State Funding Takeover

For most of Minnesota's history, county boards funded the courts. Services varied considerably, depending on the county's property wealth and political climate. State leaders found service disparities unacceptable. Starting with a 1990's pilot program in the 8th Judicial District, the state began taking over court funding, district by district. By July 2005, courts were fully state funded under the guise that it was imperative that all citizens of Minnesota have access to similar levels of judicial services, regardless of where they live, to give meaning to the principal of equal justice under the law. Even though the state equalized court funding, the state's ten judicial districts arguably remain equally underfunded.

The court's tight budget and the impact of back-to-back recessions caused many problems. Some of the urban counties with a history of well-funded courts took a bigger hit to

their budget as a result of the shift to state funding, while money shifted from the metropolitan areas to the rural areas. While rural counties benefited from this shift of funding, which increased salaries of court staff and overall operations from those available when funded locally, they, too, have endured funding challenges as a result of the volatile economy.

County-by-county impacts have varied. Northwest Minnesota added nine problem-solving courts in three years, a real benefit to rural areas that lacked such services. The state takeover also meant that courthouse staff became state employees, not county employees. Some county court staff benefited from better pay and health insurance. Some of the counties that transitioned lost staff and were forced to reduce services. Nevertheless, the result of state funding produced mixed results.

Resource Debate

Some believe that courts operating with a local funding source have an advantage in securing financial resources. Political relationships established between court administrators and decision-makers at the county or regional level may mean a more direct line of communication. The closer these relationships are, the more likely the court may be to secure desired funds for court operations or programs with special (unique) local interest. Court officials operating at the local level are not precluded from seeking outside funding sources in addition, thus layering their funding sources. It is this independent and autonomous nature of local funding that was/is preferred by some within the Minnesota Court System. For example, a significant disadvantage for some rural court administrators may be the uncertainty of the local economy. Rural areas are typically characterized by few industries or even a single means of revenue. Shifts in rural economies can devastate an entire geographic region and local government, including the court system which is vulnerable to these economic shifts. Others

have concluded that larger metropolitan areas with a diverse economic base are more likely to sustain consistent court funding over a period of time, and thus do not readily suffer as much from unexpected economic impacts.

Minnesota's Goals for State Funded Trial Courts

Minnesota identified four goals for state funding of its trial courts, They are as follows:

1. Equalize court services;
2. Allow for consistent policies and practices;
3. Provide budgetary flexibility; and
4. Provide the judicial branch funding for mandates established by the state legislature.

Research Goal

This research will examine and evaluate Minnesota's state funded court system. In particular, the research will explore some of the funding questions that remain between the state and local counties. The research takes a two-fold approach. First, a 2008 study conducted by the Justice Management Institute - *Adequate, Stable, Equitable, and Responsible Trial Court Funding: Reframing the State vs. Local Debate* is reviewed. This case study approach is used to examine how three states fund their trial courts, and serves as a basis for the second part of the research design: interviews of Minnesota court administrators regarding their experience with state funding challenges. In addition to providing a baseline for court funding implications, the case studies also identify impacts on four key dimensions of funding that provide a useful framework for examining the Minnesota experience. These four dimension are: 1) the adequacy of funding; 2) the stability of funding; 3) the equity of funding

across trial courts in a state; and 4) accountability for the fiscal management of trial courts. It is within this context that the findings from these three states are compared to the Minnesota experience. Thus, the second step of the research is to conduct interviews with court administrators in metro counties. The aim of the interviews is to evaluate the administrators' perspectives on state funding and its challenges. Based upon the findings from the case studies and court administrator interviews, the author concludes with recommendations for future evaluation of the funding structure in Minnesota.

Literature Review

Until the mid-1970's, financing the state trial courts was considered the responsibility of local government. The major state financial responsibility was to support the appellate courts. A shift away from local financing of the trial courts toward state financing began in the 1970's, but has roots going back as far as 1948. New Jersey was the first to make the switch (Tobin, 1989, p.2)

Robert Tobin wrote specifically in 1989 about this trend:

Until the 1970's the burden of trial court financing did not weigh heavily on many local governments, since court expenditures were relatively modest. The major items of expenditure were salaries and fringe benefits of general jurisdiction trial judges, of which both expenses had been at least partially assumed by most states prior to 1970. In these earlier years, courts fit easily into the framework of local government and often acquired distinct local characteristics. Sometimes, these variations were structural; more often, they were procedural and operational. Moreover, there were significant local differences in the level of expenditure for courts. This fragmentation was sometimes accompanied by a lack of professionalism in the conduct of court business. Inevitably, this localism came under challenge. In 1948, New Jersey created an office of court administration and started a process of administrative unification. (Tobin, 1989, p. 2).

When examining court functions, it may also be helpful to examine state functions versus county functions and the reasons why counties were created in the first place. In some states, counties were created by the state to carry out the business of the state at the local level. Trial court operations are considered a major responsibility of any county. By shifting a court system's funding back to the state, the state is in effect reclaiming a large part of what was originally delegated to the counties. Even in states where the courts are funded primarily by the state, such as in Minnesota, there are many costs that are still the responsibility of the local county (Tobin, 1989, p.4).

An evaluation conducted in 1975 by Carl Barr titled “*Separate but Subservient: Court Budgeting in the American States*” looked at court budgeting in the U.S.

Barr found that full state assumption of court funding is usually advocated for one or more of the following three reasons: (1) because local government revenue sources are so limited state financing will generally mean more money for the courts and improve the level of service in the total court system; (2) a state-financed court system will be more independent, because local trial courts will not be required to go before county boards to make and justify budget requests; and (3) a state-financed court system can use the budget process as a tool for improved management and planning, especially if general state funding is implemented by unitary budgeting. (Barr, 1975, p. 121).

Barr goes on to ask the following questions in his research, “Does state funding increase the ability of courts to secure adequate financial support? Does it make the judicial budgetary process more independent? Does it facilitate effective management and planning for the courts?” (Barr, 1975, p. 121). In each case, Barr found that a clear yes or no answer did not exist (Barr, 1975). A clear “yes or no answer” is arguably still in question 37 years later.

Another notable perspective regarding state funding comes from North Dakota, in an article authored by Sally Holewa, titled “From the Benches and Trenches, Court Reform: The North Dakota Experience.” Holewa summarizes that the North Dakota court system is a unified state court system characterized by a fully consolidated, highly centralized system of courts with a single, coherent source of authority. In North Dakota:

No subordinate court or administrative subunit has independent powers or discretion in matters of basic policy. The system, whose administrative head is the chief justice of the supreme court, consists of one supreme court of five justices, one intermediate appellate court, and fifty-three district courts with original and general jurisdiction in all cases except as otherwise provided by law (Holewa, 2009, p. 9).

Minnesota’s unified structure follows a similar model.

After describing the basics of North Dakota's court unification effort, Holewa reviews the major arguments put forth by both the proponents and the opponents of court unification and demonstrates how they relate to the North Dakota experience (Holewa, 2009, pp. 9-10). She asserts that the first and best argument for court consolidation was put forth by Dean Roscoe Pound and carried forward by the American Bar Association and is summarized as follows:

Court consolidation allows a judicial system to function as a single entity, [it] simplifies jurisdictional authority, reduces the need for trial de novo, and provides for the flexibility of judicial assignment. These elements make court unification the conversion of the judiciary from a loose collection of independent judges and administrators to a coherent organization capable of making and implementing operational policies for the courts, with court consolidation as a way to reduce costs, and adoption of a single court of general jurisdiction providing administrative and economic savings to all parties involved. (Holewa, 2009, pp. 9-10).

Holewa goes on to describe North Dakota's gradual shift to state financing and how it protected the court system from the enormous shock that a one-time shift of all programs and personnel sends through a court system. "The court had an opportunity to learn from experience and to adjust accordingly in preparation for moving to the next phase of state financing" (Holewa, 2009, p. 12). Staffing studies were also conducted as a part of the transition, and some counties were found to be overstaffed when county funded, so positions were transferred to other divisions of the court or to other district courts (Holewa, 2009, p.12). Employees whose salaries exceeded those in the state compensation plan found their salaries frozen until the state compensation plan caught up to them (Holewa, 2009, p. 12).

Again, Minnesota's experience is similar to that of North Dakota. For example, experiences with pay freezes and position re-classifications occurred when Minnesota

transitioned. Minnesota also shares the experience North Dakota has had with the effects of efficient methods of case management and the most effective assignment of personnel leading to mandated changes in local practices. This has put the local court in a position of having to negotiate changes with their local justice system agencies.

Sometimes the changes are welcomed by the local court, which is able to use the leverage of a mandate from a higher level to force changes they might not otherwise get. At other times, the changes are not as welcomed by either the local court or the local justice system, and the court is slow to implement them. When this occurs, the local court may be held at current staffing or resource levels until it takes the necessary steps to implement the required change (Holewa, 2009, p. 12).

Lastly, any literature review pertaining to court funding would be remiss to omit Bob Tobin's remarks from *Creating the Judicial Branch: The Unfinished Reform*. Tobin made some key points about structural unification, describing it as a "visible, symbolic manifestation of building the third branch of state government" (Tobin, 1999, p. 154). Tobin indicates that the term "structural unification" implies a rigidity belied by the actual practice in the states. Any organizational structure in a dynamic environment has to be adaptable (Tobin, 1999, p. 154). His additional emphasis on how unification promotes efficient change management is summed up as follows:

Where there are statewide tiers of trial courts, localism is curbed without sacrificing flexibility. Unified courts can adapt themselves to changed circumstances faster and less confusingly than a court system rooted in local government structure. Moreover, they can do this without reverting to disorder. The great achievement of structural unification was to give organizational form to the concept that the state judicial branch is more than a group of semi-independent judges loosely held together by a common appellate process. It is an integrated organism (Tobin, 1999, p. 159).

Tobin also claims that population density and urbanization are the prime factors in determining court expenditures. Those states with huge metropolitan areas and a number of other urban areas inevitably experience a level of social interaction, social disintegration, and

commercial activity that increases court workload in a geometric ratio. (Tobin, 1999, p. 159).

Moreover, personnel and other costs tend to be high in such areas. According to Tobin, most state court systems fall into four basic expenditure categories:

- States with a high level of urbanization and large metropolitan areas (e.g., New York)
- States that are very urbanized but do not have large cities (e.g., Connecticut and New Jersey)
- States that have a more or less even mix between urban and rural areas (e.g., Illinois and Minnesota, which have one large metropolitan area in what is otherwise not a densely populated state)
- States that have relatively few urbanized areas of significant size (e.g., South Carolina, Kansas) (Tobin, 1999, p. 154).

Tobin beautifully summarizes the competing perspectives supporting and opposing unification, saying that:

proponents of state financing now generally argue that it will lead to a more stable and equitable source of funding, improved allocation of resources in the system, savings of scale and other efficiencies, a more uniform system of justice, more accountability of trial courts, improved professionalism, and freedom from the compromising situations that arise when judges must handle cases involving the local entities that fund them. Opponents routinely charge that state financing will lead to undue centralization and bureaucracy, higher costs, insensitivity to local and public needs, loss of revenue for local governments, possible loss of employee jobs or diminution of benefits and status, and overdependence on one funding source (Tobin, 1999, p. 145).

The overwhelming message from Tobin's finding is that "the reform agenda of the last half-century is unfinished." Work is still yet to be done. Questions remain. Funding in unified states remains ambiguous.

Methods

This research consists of three primary steps utilizing qualitative research methods. A qualitative approach was selected for the research design, primarily for the richness of the data that such methods deliver. The first step in the research design is review of a 2008 case study completed by the Justice Management Institute. The second step is a series of interviews conducted with the court administrators for five of the largest metropolitan counties in Minnesota. The third step is a compilation of expenses and responsible parties designed based upon information collected during the court administrator interviews.

As a starting point for this research, the author reviewed three case studies about state court funding experiences published by the Justice Management Institute. Beginning with the case studies provided a basis to inform the court administrator interviews and highlighted potential issues for consideration during the interviews. The case studies identified impacts in four key dimensions of funding that were useful as potential areas for exploration in the interviews. The four areas include: adequacy and stability of funding, equity of funding across trial courts in a state, and accountability for the fiscal management of trial courts (Carlson, 2001, p. 1).

To gain more specific information regarding Minnesota's court funding challenges, interviews were conducted with court administrators in the five largest metropolitan counties in Minnesota (see Appendix A for a copy of the interview questions). Metropolitan counties were selected for the interviews because there is a perception that large, urban courts are impacted more heavily by the transition to state funding. Additionally, as a court employee of a large, urban court, the author is interested in the impacts of the state funding model on urban courts, although additional research should be conducted regarding the experiences of rural courts as

compared to urban courts within Minnesota. For the interviews, court administrators from courts in the counties of Hennepin, Ramsey, Dakota, Anoka, and Washington were selected. This provides a cross-section of the five largest urban courts in Minnesota.

Finally, the author compiled a list of expenses and proposed responsible party based upon the information gathered during the interviews. This list provides a basis for further examination of funding for specific expenses. For ease of depiction, expenses are categorized into nine groups:

- 1) Equipment and Furniture
- 2) Facilities
- 3) Travel
- 4) Security Services
- 5) Court Reporters
- 6) Judges
- 7) Jury/Juror Expenses
- 8) Mandated Services
- 9) Technology

Findings

Case Studies

The research findings from the case studies suggest that the method of providing funding for trial courts in a state can have significant impact on the operation of its courts. The judiciary's goals cannot be accomplished if it is not funded at an appropriate level. Over the last three decades, a number of states have shifted primary funding of trial courts from the local level to the state. There is considerable debate about which approach is better. Carlson's report further analyzes the funding of trial courts by examining the experiences of three states, representing a spectrum of experience – New Jersey (state funded – 10+ years), Florida (state funded – recent), Washington (locally funded) (Carlson, 2001, p.1). Each state's approach is examined with regard to impacts on four key dimensions of trial court funding:

- 1) Adequacy of funding
- 2) Stability of funding
- 3) Equity of funding across trial courts in a state
- 4) Accountability for the fiscal management of trial courts (Carlson, 2001, p. 1).

The New Jersey Experience

New Jersey was selected to be part of this study because it has had primary state funding of its trial courts for over 10 years. As such, it provided an example of a state where trial court funding had reached a certain stasis regarding the funding levels and operations. The shift to primary state funding of the trial courts in New Jersey became effective on January 1, 1995. The shift continued a trend toward centralization and unification in the New Jersey judiciary that had begun years earlier. Some trial court costs were already paid by the state and the trial courts were using case management systems provided and supported by the state level judiciary. Indigent defense costs were already paid from state funds through the executive branch. The transition process made use of existing state-level governance structures and advisory committees. The

shift established greater equity of staff resources and salaries and benefits across the trial courts. It also led to greater uniformity of programs and business practices and a sense of one judiciary in the state (Carlson, 2008, p. 27).

New Jersey's shift to primary state funding of its trial courts provided a number of lessons about how to effectively fund trial courts. The judiciary achieved equity of resources across trial courts by developing models that predicted staffing needs, implementing uniform position classifications and management structures, and establishing uniformity of programs and business practices.

While successful in equitably allocating staff, the models were seldom used to obtain a particular level of funding, let alone additional state funding. All trial court employees became state employees under a uniform personnel system (Carlson, 2008, p. 56). In addition, standards were developed and best practices encouraged.

Finally, the judiciary used existing governance structures during the transition process, with some modifications to expand representation and collaboration. Leaders and managers—assignment Judges, division Presiding Judges, court administrators, and division managers—were strongly involved in resource allocation decisions, development of statewide policy and practice, and the setting of statewide priorities and programs (Carlson, 2008, p. 56).

The approach taken in New Jersey did exhibit some weaknesses. Even though they improved accountability, the limitations of staffing model factors and expectations about spending patterns appeared to have inhibited flexibility and innovation, particularly associated with relatively unique local caseload and litigant characteristics, or approaches to handling cases (Carlson, 2008, p. 56).

A major source of frustration and conflict was continuing county fiscal responsibility for court facilities. Counties must provide facilities for operations and programs over which

they have no control. Although this approach is common in states providing a majority of funding for trial court operations, it is not without challenges (Carlson, 2008, p. 56).

Overall, New Jersey implemented the shift to primary state funding of its trial courts in a manner consistent with its goal to create a uniform and centralized statewide judiciary. It did so without major disruptions of staff or programs and despite reductions in total state funding unrelated to court workload or accountability. The result is a uniformly staffed and operated trial court system that the judiciary feels provides an acceptable quality of justice to those it serves (Carlson, 2008, p. 56).

The Florida Experience

In 2004, Florida became one of the most recent states to move to primary state funding of its trial courts. The shift occurred as a result of a Constitutional amendment adopted by the voters in 1998. The transition involved a major shift in funding for the trial courts, County Clerks, and to a lesser extent, state attorneys and public defenders. Most trial court operation costs previously funded by the counties were shifted to state funding. Clerk of court functions provided by the County Clerk were shifted from county funding to fee-based funding. Prosecution and public defender staffing costs were already state funded, but costs for ancillary services, such as expert witnesses, interpreters, and court reporters were shifted from the counties to the state. All conflict counsel costs were also now to be paid by the state. The shift to primary state funding had major impacts on the trial courts regarding funding, governance, and intergovernmental relations (Carlson, 2008, p. 57).

Florida's transition to greater state funding of its trial courts provides a number of insights into how to effectively fund trial courts. The judiciary began by defining the core functions of the trial courts. Formulas were constructed to calculate the adequate level of funding needed statewide. The judiciary was moderately successful in acquiring additional

funding for state funded essential elements (Carlson, 2008, p. 98). Pooling of funding for “unpredictable” costs in smaller courts resulted in greater stability of funding in these courts. The approach focused on programs, services, and outcomes, as opposed to staffing levels and traditional line item budget categories.

The judiciary also established new governance structures. The structures included representatives of all sizes of courts from across the state and operated in an inclusive and collaborative manner. The new structures were used to develop coherent and responsive statewide priorities. It also enabled the judiciary to monitor its activities and spending, thereby demonstrating accountability to the legislature and the public for judiciary spending and results.

There were also lessons about what may not work as well. Some practices associated with the allocation of funds were seen as rigid. There were restrictions against transferring funds - these restrictions appear to have inhibited innovation. This is particularly true for those associated with relatively unique local caseload and litigant characteristics, even though they also enhanced accountability (Carlson, 2008, p. 98).

Another area of concern was the decision that the clerk of court function be entirely fee-funded. A massive increase in the amount and number of fees was required to provide necessary funding. Finally, new accounting structures had to be created to monitor the collection and allocation of clerk of court revenue and the efficacy of clerk of court expenditures (Carlson, 2008, p. 98).

Circuits of all sizes reported that they had existing positions or programs that were not funded by the state. The positions that were not funded either did not fall within the essential element definitions, involved a personnel classification that was not supported under state

funding, or exceeded staffing levels from funding formulas. Losses of positions were most evident in the court administration, case management, expert witness, and mediation elements, as demonstrated in the following table summarizing the results of a telephone survey of the judicial circuits.

Table 1: Positions Lost and Circuits Affected

POSITIONS LOST AS A RESULT OF TRANSITION Element	Number of Positions Not w/in Essential Element Definition	Number of Circuits Affected	Number of Positions Beyond Formula Total	Number of Circuits Affected
Court Administration	85	4	34	7
Case Management	70	9	30	9
Expert Witnesses	59	4	3	3
Mediation	Not Available	Not Available	20	2

The separation of responsibility and funding for clerk of court functions will create dysfunctional processes and continue to call into question issues regarding payment for court facilities and technology. It also creates new areas of friction between the courts, County Clerks, counties, and the state government about who sets priorities, who changes programs and practices, and who pays for court expenses (Carlson, 2008, p. 98).

The Washington Experience

The state of Washington was representative of those states that had a long history of primary local funding and limited state funding of trial court expenditures. It also was typical of states with a single general jurisdiction trial court, and a few limited jurisdiction courts. Over the years, Washington repeatedly acknowledged that its trial courts were inadequately funded, and expressed concern about uneven availability of judicial programs and services and inconsistent operations and practices across its trial courts. It struggled with how to address these concerns, yet retain strong local

autonomy and accountability for the trial courts. There was a general consensus regarding the need for greater funding overall and more uniform programs, services and practices across trial courts, but it was difficult to get a consensus on whether, and to what extent, greater state funding would address the problem (Carlson, 2008, p. 100).

While the Washington state judiciary was not engaged in a transition to greater state funding at the time of this study, the judiciary was engaged in an equally intense examination of how its trial courts were funded and what the balance between state and local funding should be. The impetus to examine funding is similar to that found in New Jersey and Florida—limitations on local government revenues and a sense that funding is inadequate, with a resulting negative impact on the availability of equal justice across the state (Carlson, 2008, p. 128). Washington’s examination began with the premise that mixed state and local funding is preferable to funding solely from the state or local government.

The study also considered possible new revenue sources to provide an increased share of state funding, rejecting the notion that a significant portion of trial court funding should come from filing fees, fines, and penalties (Carlson, 2008, p. 128). The result of the study was a legislative effort to increase the state’s share of funding for trial courts and indigent defense. The effort was successful; state appropriations for trial courts and indigent defense were increased. Although the amount of new state funding is far less than requested, there is now a greater recognition and acceptance that the state has an obligation to fund some level of trial court costs and provision of representation for indigent litigants (Carlson, 2008, p. 128).

Court Administrator Interviews

During the time of transition in Minnesota from county to state funding, the distinction between state and county expenses was different for non-state funded districts than they were for state funded districts. After the transition, districts still have both county and state budgets from which various court expenses are paid. There have been distinct areas of ambiguity that have arisen as a result of two distinctly different funding bodies. The court administrator interviews help to clarify some of these issues. Results obtained through the court administrator interviews were surprisingly similar among the counties represented. Of the six questions asked during the interviews, the respondents provided similar answers to each question, with the notable exception of one. In response to question four, which asks for examples of how court administrators have resolved disputes involving funding responsibilities, the court administrators' responses varied somewhat. The author attributes the differences among these responses to differences in court administrator approaches, leadership preferences, state and local inter-branch relations, and creativity in problem-solving. However, the results were otherwise unanimous that: 1) there has been a reduction in the court's operations and personnel budget since the transition to state funding; 2) that counties have maintained certain mandated court expenses; 3) that expenses have arisen where uncertainty regarding responsibility for payment exists; 4) that clarification in the state statutes regarding responsibility for payment is necessary; and 5) that the courts have shared their questions and/or concerns with state policymakers through proposed legislation or other means. Results of the interviews are summarized in Table 2, below.

Table 2: Summary of Responses from Metropolitan Court Administrators

County	Question 1	Question 2	Question 3	Question 4	Questions 5 & 6
Hennepin	Yes	Yes	Yes	Discussion between Courts and County Officials	Clarification needed/Yes
Ramsey	Yes	Yes	Yes	Clarification of statutes sought/negotiation with County	Clarification needed/Yes
Dakota	Yes	Yes	Yes	Discussion w/county – some remain unresolved	Clarification needed/Yes
Anoka	Yes	Yes	Yes	Discussion between Court and County Officials	Clarification needed/Yes
Washington	Yes	Yes	Yes	Discussion w/County – some remain unresolved	Clarification needed/Yes

The results of the interviews clearly indicate that state budgets for these five counties are less than they were when funded locally prior to the transition. Additionally, expenses routinely arise that cause question and discussion about which budget is responsible for payment – state or local. The interview responses suggest that several expenses are called into question more frequently than others (see Appendix D for a comprehensive list of court expenses and the responsible party for each). Each of these areas are identified and discussed in detail below.

General Operational Costs

Equipment and Furniture

While furniture for judges, law clerks, court reporters, and court staff is the primary responsibility of the state, there is certain equipment that remains the expense of the county – primarily furniture as a result of new construction or remodeling, along with ADA listening devices and teleconferencing equipment. Feedback from the court administrators interviewed

indicates there is some ambiguity in regards to *“teleconferencing equipment”*.¹ Since the state is responsible for “ITV (inter-active television) equipment” and the terms ITV and teleconferencing are at times used interchangeably, confusion has arisen on payment responsibility.

Table 3: Equipment and Furniture

State Paid Expense	County Paid Expense
Furniture for new judges, law clerks, court reporters	Furniture - New Construction/Remodeling
Ergonomic Supports	All ADA listening devices/systems
ITV Equipment	Teleconferencing Equipment
Replacement of Office Furniture and Equipment	
Replacement of judge, court reporter, law clerk and judicial district administrator furniture and equipment	

Facilities

This category is called into question more frequently than any other, according to court administrators. Courthouse facilities remain almost entirely the primary responsibility of the local counties, but there is continuous question and friction between county and state leaders about payment for particular items. The state has payment responsibility for each judicial

¹ Bold, italicized wording indicates metropolitan court administrators have had problems determining payment between the state and their local county for these items.

district's administration space, cabling for PC's, printers, fax machines, and scanners, and ***minor courthouse remodeling and repairs.***

The county has maintained responsibility for office space and utilities for court staff, judges, court reporters, and law clerks; cleaning and facilities maintenance; ***courthouse security systems (metal detectors, magnetometers, CCTV); courtroom sound systems;*** rent for court administration operations; county law library; jury assembly and deliberation rooms and their ***furnishings; courtroom seating, including jurors, counsel, witnesses, bailiffs, clerks, and attendants;*** courtroom seating for judges, law clerks, and court reporters, if new construction or major remodeling; ***all new construction and major remodeling of court facilities and facilities housing court offices;*** electrical outlets and cabling in new construction or major remodeling for all workstations; and cabling and electrical wiring for counsel tables, jury boxes, conference rooms, waiting areas, and jury assembly areas for non-staff use.

Questions/problems about the expenses in bold italics have arisen in several counties. But the key issues that have arisen are not necessarily about which funding body is responsible for the expense itself. Rather, the issues occur when the county thinks a court is in need of these items (versus when the court does), or when a county is unable to pay for these items due to funding/revenue shortfalls at the local level.

Table 4: Facilities

State Paid Expense	County Paid Expense
District Administration Office Space and Utilities	Office Space and Utilities - Court Administration, Judges, Court Reporter and Law Clerks
Cabling for PC's, printers, fax and scanners	Cleaning and Facilities Maintenance
Minor remodeling and repairs	Courthouse Security Systems: Metal Detectors, Magnetometers, CCTV
	Courtroom Sound Systems
	Rent for Court Administration Operations
	County Law Library
	Jury Assembly and Deliberation Rooms and Furnishings
	Courtroom Seating including judge, jurors, counsel, witnesses, bailiffs, clerks, attendants
	All new construction and major remodeling of court facilities and facilities housing court offices.
	Electrical outlets and cabling in new construction or major remodeling for all workstations.
	Cabling and electrical wiring for counsel tables, jury boxes, conference rooms, waiting areas and jury assembly areas for non-staff use

Mandated Services

This category has garnered much attention with recent budget challenges during the past five years in Minnesota. Local counties and state leaders have worked to clear payment ambiguity and formalize processes (particularly for psychological services) for expenses in this category. The overall consensus is that expense responsibility for mandated services is well-defined. The summary of these findings is as follows:

The state of Minnesota is responsible for the payment of guardians ad litem; interpreters; psychological exams; adult rule 20²; civil commitments; and *in forma pauperis* expenses. The county is in turn responsible for detention costs; chemical dependency counselors; examiner of titles; juvenile exams; sexual assessments; criminal pre- and post-conviction hospital costs associated with exams; investigative expenses; criminal investigation pursuant to M.S. 611.21; civil case attorney appointments; *and advisory counsel*.

Questions about the statutes that govern payment for advisory counsel arose specifically in Washington County, Minnesota in 2011. In all other counties, with the exception of Ramsey, funding for the advisory counsel is the responsibility of the county. Advisory counsel appointments are rare and occur when the court appoints an attorney to be available to a defendant who has discharged the services of a public defender in a limited advisory role.

² This is the Minnesota statutory requirement for adult mental health evaluations.

Table 5: Mandated Services

State Paid Expense	County Paid Expense
Guardians Ad Litem	Detention Costs
Interpreters	Juvenile Court Services/Probation Officers
Psychological Exams	Chemical Dependency Counselors
Criminal Adult Rule 20, Civil Commitments and Family IFP Cases	Examiner of Titles
Investigative Expenses	Vital Stats and Marriage License Personnel
IFP Expenses	Psychological Exams
	Juvenile Exams, sexual assessments, criminal pre and post-conviction hospital costs associated with exams
	Hospital Costs Associated with Exams
	Investigative Expenses
	Criminal Investigation pursuant to M.S. 611.21
	IFP Expenses
	Civil Case Attorney Court Appointments
	Advisory Counsel

Conclusions and Recommendations

The results of the three case studies and the court administrator interviews provide valuable information about Minnesota's progress as a state funded court system in comparison to other states' funding experiences. The findings of this research have helped to identify specific areas where funding questions remain.

Conclusion 1: The case studies of New Jersey, Florida, and Washington suggest that there is no clear overall advantage to either primary state funding or primary local funding.

The goal of the case studies is to address adequacy, stability, equity, and accountability of both local and state funded court systems. Overall, there was no conclusive evidence to suggest that there is a distinct advantage to one level of funding over the other. In order to manage trial courts responsibly, court leaders must have funding streams they can rely on from year-to-year and which do not fluctuate significantly or unpredictably. The three case studies suggest that neither state nor local governments provide more stable or predictable funding for trial courts. With either approach, the judiciary's budget was exposed to the fluctuations associated with the revenue sources supporting that level of government.

Recommendation 1: Survey a sample of Minnesota justice stakeholders and court participants specifically seeking input on the quality and access to justice they receive under the unified system of funding.

The case studies suggest that the public expects that funds to operate trial courts will not only be provided, but spent in a fiscally responsible manner. If adequate funds are not provided, the quality of justice may suffer. Primary state funding makes it more likely that statewide strategic objectives and program outcomes will be achieved. Additionally, as suggested by the case studies, the state must also consider whether unique local needs are discounted or ignored. To gather useful data about these issues in the state of Minnesota, the author recommends that a survey of justice stakeholders and court participants be conducted, specifically seeking input on the quality and access to justice they perceive is achieved under the current unified funding structure. This data may then be used to identify specific goals for improvement of the quality and access to justice received by citizens, and as a benchmark for future studies.

Conclusion 2: The case studies reveal that there is an enhanced effort to gather workload, performance, and outcome data in a consistent manner across the state when primary funding shifts to the state.

The funding of trial courts does not lend itself to simple formulas or easy accountability. Measuring the quality of justice is difficult, rendering the allocation of funding to achieve just outcomes similarly complex. While primary state funding does lead to greater equity of funding, it appears to hamper innovation in programs and operations. Neither local nor state funding results in greater stability of funding or more adequate funding for the courts. At either level of government, the impact of revenue source stability and budget politics continues to be significant. Additionally, the degree of accountability depends on what is

measured and how spending is monitored by those who allocate funds (Carlson, 2008, p. 5). Efforts to gather workload, performance, and outcome data allow comparison across courts on performance and accountability measures. This information in turn provides some measurement of the court's achievement of its goal: the attainment of justice.

Recommendation 2: Apply lessons learned from the case studies to evaluate court accountability in relation to spending.

Are local courts being held accountable for not only spending but financial accountability? Are the controls adequate? Recent audit findings from the Minnesota Legislative Auditor indicate that Minnesota courts potentially have improvements to make before becoming a system that is truly transparent and fully in compliance with audit requirements. Better internal controls could be developed and the existing accounting system simplified to provide the transparency required by the public. Such clear and understandable controls for local courts are desirable, regardless of the funding body.

Conclusion 3: Ambiguity remains in Minnesota about local or state payment regarding certain court expenses.

According to court administrators, struggles remain in Minnesota regarding whether a county or the state is responsible for payment of certain expenses. The case studies detailed above indicate that similar ongoing tensions remain in New Jersey and Florida, particularly

regarding payment for court facilities and technology. Local courts have unique needs; as a result, the one size fits all approach regarding funding is not always effective.

In Minnesota, the biggest challenges regarding funding are in the following areas.

Table 6: Expense Breakdown

Facilities	Mandated Services	Equipment and Furniture
Major Courthouse Remodeling and Repairs	Advisory Counsel	Teleconferencing Equipment
Courthouse Security Systems (hardware and personnel)		
Courtroom Sound Systems		
Furnishings		
Courtroom Seating		
New Construction and Remodeling		

The items in Table 6 above are all supposed to be county expenses. The “facilities” category is where the most questions and/or conflicts arise. How local counties prioritize the needs of the court versus their own and those of county departments varies. Courts that were well-funded prior to their transition to state funding have seen their relationships with the county evolve. Part of the result is that court needs for which the county is fiscally responsible may be placed low on capital improvement plans or initiatives.

Recommendation 3: Formally evaluate state funding in Minnesota, county by county.

While there are clear benefits and challenges to Minnesota’s state funded court system, the question remains whether the funding structure meets the needs of the public. Are individual county courts struggling financially to meet the needs of constituents under a state funded system? Does Minnesota have the resources and facilities required to meet those needs? A state-led evaluation of how Minnesota counties have changed six years past completion of the

transition to state funding is necessary to answer these questions. Additionally, a study that evaluates what is gained and lost within the context of unique, local needs should be undertaken. A state-led evaluation of how Minnesota counties have changed six years past completion of the transition to state funding that evaluates what has been gained and what has been lost would be a worthwhile analysis.

Recommendation 4: Baseline standards for court facilities and court security requirements should be detailed in Minnesota statutes to provide guidelines for expenses that remain in dispute between the local and state funding bodies.

Revision to the Minnesota statutes that govern state and local funding should be reviewed by both local and state court leadership. If state court funding is meant to bring continuity to and ensure adequate funding for the courts, the cornerstone categories of facilities and court security must be adequately funded. A courthouse is arguably ill-equipped, if not totally unable, to carry out its constitutional obligations if the facility and court security measures taken are inadequate. According to court administrators, state and local definitions regarding what is “adequate” differ.

Minnesota’s approach to funding its trial courts has significant impacts on both its mission and those it serves. The purpose of this research was to evaluate Minnesota’s state funded court system and where some of the funding questions between the state and counties remain. The research was accomplished by evaluating how three other states fund their trial court in a 2008 study conducted by the Justice Management Institute - *Adequate, Stable,*

Equitable, and Responsible Trial Court Funding: Reframing the State vs. Local Debate and through interviews with five metropolitan court administrators as a follow-up to the case studies. The overall findings indicate that work remains yet to be done to achieve adequate funding of the courts. In addition to evaluating state funding in Minnesota, county by county, formally seeking feedback from local administrators, justice stakeholders, and court participants on the quality and access to justice they receive under a unified system would help state and local officials target some of the funding areas that require specific attention. Establishing baseline standards for court facilities and other expenses should be detailed in Minnesota statutes to provide guidelines for expenses that remain in dispute between the local and state funding bodies. In a time where competition for already scarce local resources is fierce, the evaluation and clarification detailed above is a necessity. If such clarity is not achieved, the courts will continue to be at a marked disadvantage.

Appendix A: Interview Questions Posed to
Metropolitan Court Administrators

Interview Questions Posed to Metropolitan Court Administrators in Anoka, Washington, Dakota, Hennepin, and Ramsey Counties

- 1) Have you seen a reduction in your operations and personnel budget since Minnesota's transition to state funding?
- 2) Counties have had to maintain certain mandated expenses of the court – does your court maintain any non-mandated expenses?
- 3) Has your court had expenses arise where there is uncertainty about who should pay (county or state)?
- 4) If/when those issues arose, how did you resolve them?
- 5) Do you feel there needs to be clarification in the Minnesota statutes about responsibility for court funding/expenses?
- 6) Have you posed some of your questions/concerns to state policymakers or proposed revisions to state legislation?

Appendix B: Demographic Characteristics of Florida, New Jersey, and Washington

DEMOGRAPHIC CHARACTERISTIC	FLORIDA	NEW JERSEY	WASHINGTON
Population (US Census April 1, 2000)	15,982,378	8,414,350	5,894,121
Population of Largest Judicial Circuit/County (Percent of State Total)	2,253,362 (14.1%)	793,633 (9.4%)	1,737,034 (29.5%)
Number of Counties	67	21	39
Number of Judicial Circuits, Vicinages, or Districts	20 Circuits	15 Vicinages	30 Districts
Number of Multi-County Judicial Circuits, Vicinages, or Districts	15 (average 4.1 Counties per Multi-County Circuit)	3 (average 2.67 Counties per Multi-County Vicinage)	6 (average 2.33 Counties per Multi-County District)
Number of Circuits, Vicinages, Districts with a Population of Less than 30,000	None	None	6
Average Population per Judicial Circuit, Vicinage, or District	799,119	560,957	190,133
Range of Population of Judicial Circuits, Vicinages, or Districts	79,689 to 2,253,363	350,761 to 884,118	10,184 to 1,737,034

Appendix C: Map of Minnesota's Judicial Districts

Appendix D: State/County Court Expense Charts

General Operational Costs

Equipment and Furniture

State Paid Expense	County Paid Expense
Furniture for new judges, law clerks, court reporters	Furniture - New Construction/Remodeling
Ergonomic Supports	All ADA listening devices/systems
ITV Equipment	Teleconferencing Equipment
Replacement of Office Furniture and Equipment	
Replacement of judge, court reporter, law clerk and judicial district administrator furniture and equipment	

Courtrooms

State Paid Expense	County Paid Expense
Replacement furniture and equipment for judges, court reporters, law clerks in all courtrooms that are not the subject of new construction and remodeling.	
Recording equipment and computers.	

Facilities

State Paid Expense	County Paid Expense
District Administration Office Space and Utilities	Office Space and Utilities - Court Administration, Judges, Court Reporter and Law Clerks
Cabling for PC's, printers, fax and scanners	Cleaning and Facilities Maintenance
Minor remodeling and repairs	Courthouse Security Systems: Metal Detectors, Magnetometers, CCTV
	Courtroom Sound Systems
	Rent for Court Administration Operations
	County Law Library
	Jury Assembly and Deliberation Rooms and Furnishings
	Courtroom Seating including judges, jurors, counsel, witnesses, bailiffs, clerks, attendants
	All new construction and major remodeling of court facilities and facilities housing court offices.
	Electrical outlets and cabling in new construction or major remodeling for all workstations.
	Cabling and electrical wiring for counsel tables, jury boxes, conference rooms, waiting areas and jury assembly areas for non-staff use

Facilities maintenance including, but not limited to: Heat, Light, Air Conditioning, Electrical Services, Refuse Collection, Cleaning, Restrooms, Mail Collection, Janitorial Services, Mail Processing and Delivery.

Travel

State Paid Expense	County Paid Expense
Meals, mileage, lodging for court or district business pursuant to state policy	

Security Services

State Paid Expense	County Paid Expense
	All security related expenses are a county responsibility. Including, but not limited to: Personnel, Alarms, Security Cameras, Metal Detectors

Court Reporters

State Paid Expense	County Paid Expense
Salaries and Benefits	
Equipment	
Equipment repair/maintenance	
Supplies	
Printing and Copies	
Meals, mileage, lodging expenses for court or district business pursuant to state policy	
Long distance telephone/postage	

Judges and Jury/Juror Expenses

State Paid Expense	County Paid Expense
Robes, robe cleaning	Security related to Juror Safety
Stationary, supplies and business cards	Sequestration Expenses
Automated legal research	
MDJA Dues - 50% paid by state	
Finance and Commerce	
Jury System Training	
Juror Expenses	
Sequestration Expenses	
Child Care	
Juror Notices - Summons and Postage	
Juror Amenities (coffee, cream, sugar, water)	
Jury System Software Development and Maintenance	
Grand Jury Reporters Per Diems	
Grand Juror per diem and allowable expenses	
Grand Jury Witness Fees and Expenses	

Mandated Services

State Paid Expense	County Paid Expense
Guardians Ad Litem	Detention Costs
Interpreters	Juvenile Court Services/Probation Officers
Psychological Exams	Chemical Dependency Counselors
Criminal Adult Rule 20, Civil Commitments and Family IFP Cases	Examiner of Titles
Investigative Expenses	Vital Stats and Marriage License Personnel
IFP Expenses	Psychological Exams
	Juvenile Exams, sexual assessments, criminal pre and post conviction hospital costs associated with exams
	Hospital Costs Associated with Exams
	Investigative Expenses
	Criminal Investigation pursuant to M.S. 611.21
	IFP Expenses
	Civil Case Attorney Court Appointments
	Advisory Counsel

Technology

State Paid Expense	County Paid Expense
Recording Equipment and Computers	T-1 Collaboration Line Costs including ITV Line Costs
Cabling to retro-fit courtroom for recording equipment and computers for judges and court reporters, law clerks, court administration staff	
ITV equipment and maintenance	

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