

The Supreme Court of Ohio

Budget Testimony on behalf of the Supreme Court of Ohio and Ohio's Judiciary

before the

Ohio House of Representatives Finance and Appropriations Committee Transportation Subcommittee

Thursday, February 18, 2021

Chairman Patton, Ranking Member Skindell, and Members of the Subcommittee:

I am Jeff Hagler, the Administrative Director of the Supreme Court of Ohio. On behalf of Chief Justice Maureen O'Connor, the justices of the Court, and the judges of Ohio, I want to thank you for the opportunity to testify on the proposed Fiscal Year 2022-2023 biennium budget for the Supreme Court and the Ohio Judiciary. With me here today are Stephanie Hess, the Court's Deputy Administrative Director; Ronda Carver, the Director of Fiscal Resources; John VanNorman, Chief Legal Counsel; and Jess Mosser, Legislative Counsel.

I. Ohio's Judiciary

I begin my testimony by addressing local courts, rather than the Supreme Court, for two reasons. First, because the majority of our proposed budget goes toward the salaries of judges across the state and to programs that support them. Second, and perhaps more important, because local courts are at the ground level when it comes to solving the many challenges confronting our justice system today.

The Ohio judiciary is comprised of 384 courts, with 723 judges serving on those courts. On a typical day in 2019, Ohio's trial courts heard 11,480 cases across the various case types, including 5,305 traffic, 2,432 criminal, 2,091 civil, 866 juvenile, 434 domestic relations, and 352 probate cases. These numbers are lower for 2020 due to the COVID pandemic. Although these caseload statistics are helpful, they do not tell the entire story of the work of the judiciary in Ohio.

One case at a time, our local courts confront, first-hand, some of the most vexing problems our society faces: substance abuse, mental illness, family strife, domestic violence, and housing crises, to name a few. They do so under the increasing scrutiny of a public that rightly demands answers to complex issues like high levels of incarceration and racial disparities in outcomes—issues with underlying causes well beyond the unilateral control of our justice system.

In addition, over the past year judges across the state have continued to perform their duties under the strain and turbulence caused by the COVID pandemic,

demonstrating a strong commitment to their communities and a sense of responsibility to those who must enter their courthouses. Through initiative and hard work, they have amended local rules, employed new technologies, and adapted their processes to keep their courts open. We often speak of access to justice in conceptual terms, but local courts have quite literally maintained access to justice in their communities by continuing to provide essential functions through every phase of the pandemic.

Further, our courts have done so with responsibility and abundant common sense, modifying their facilities and taking innovative measures to maintain the health and welfare of their staffs and all who access them. One of our goals in this biennium is to capture the many lessons learned and best practices courts have employed by necessity and to help courts apply them in the future. This requires a continuing commitment of resources, building on the investments we have made in technology to make our courts more efficient, accessible—and ultimately fairer and more effective—long after the COVID crisis abates.

II. The Supreme Court

Ohio has a non-unified judicial system; that is, judges are elected locally and function independently under the Ohio constitution and state law. At the same time, our constitution vests the Supreme Court with general superintendence authority over all courts in the state. This authority has two aspects to it. First, the Court is

charged with developing and setting the basic operational rules for the courts. Second, the Court actively provides resources and support to local courts, to include the following:

- The Court’s Specialized Dockets Section provides no-cost technical support to local trial courts to implement and certify specialized docket programs. The Court continues to collect and analyze data from the 259 certified specialized dockets across the state to identify trends and best practices. Sharing these statewide helps courts deal more fairly and effectively with offenders whose involvement in the justice system stems from substance use disorder. I will discuss the proven effectiveness of these dockets (often called “Drug Courts,” even though not all involve drugs) in more detail below.
- The Case Management Section works with courts to improve their case management processes and reduce the time it takes to render decisions. The Court promulgates case processing timeline standards and works directly with courts around the state to help them meet those standards.
- The Court’s Children and Families Section is engaged in a broad range of matters affecting domestic relations, juvenile and probate courts. Among the programs this section oversees are efforts to improve guardianship practice and to advance best practices in the foster care system.

- The Court's Judicial and Education Services Division works with judges around the state to address emerging issues and coordinate services to the judiciary. Of note, the Ohio Judicial College conducted a series of timely, practice-oriented remote seminars, led by experienced and respected judges, to help their colleagues deal with novel challenges raised by the COVID pandemic.
- Through the Court's Dispute Resolution Section, the Court promotes the use of mediation to resolve parts or all of a case. We know mediation does not work in every case, but when it succeeds, the parties avoid costly, time-consuming litigation and are often more compliant with outcomes in the long run. This section also offers a mediation service to local government officials who find themselves in disputes with one another. Finally, the Court recently initiated a pilot program for Online Dispute Resolution for evictions, small claims, foreclosures, and child custody and support in several local courts designed to make mediation services more convenient and efficient and thus, more attractive to parties in dispute.
- The Supreme Court's Information Technology staff continues to support statewide databases and other IT resources for local courts, to include the Ohio Courts Network (OCN). This network is a clearinghouse for criminal justice information, enabling courts and probation authorities to gain a greater

understanding of an individual’s history with the courts. Working with the Attorney General’s Office, the OCN has become the principal gateway for reporting criminal case disposition information to the state Bureau of Criminal Investigation, thereby making reporting timelier and reducing inconsistent reports. The Ohio Courts Technology Initiative, a separate budget line item, also plays a key role in supporting courts statewide. In the current biennium, the Court awarded over \$6 million of these funds in grants to local courts targeted toward enabling remote, rather than in-person proceedings to mitigate the risk of COVID spread.

In sum, the Supreme Court not only decides cases that come before it, it is also deeply involved in supporting the efforts of local courts and other entities working to address some of Ohio’s most pressing problems. I will briefly highlight two of these efforts.

III. Ohio’s “Drug Courts”

One of the most critical issues facing the state and our courts is serving individuals afflicted with a substance use disorder (SUD). As noted above, the Supreme Court works directly with drug courts and through its Commission on Specialized Dockets to provide proven standards and effective resources to address this problem. Since drug courts and their effectiveness have, at times, been

portrayed inaccurately or with incomplete facts, I want to offer a few data points for your consideration:

- Of Ohio’s 259 specialized dockets,
 - 215 serve people with substance use disorders (83.1%).
 - 44 serve those with mental health disorders (16.9%).
 - 229 serve adults (88.4%), while 30 serve juveniles (11.6%).
- There is at least one specialized docket in 67 of our 88 counties (76.1%); those 67 counties represent 92.2% of Ohio’s total population.
- The Court began collecting data from our specialized dockets on July 1, 2019. On that date, dockets were required to report data on all admitted participants and going forward, on all referrals, admissions, and exits.
- Since July 1, 2019, 4,713 persons have exited a specialized docket, of which 2,752 successfully completed the program. Thus, across all specialized dockets, we see a graduation rate of 58.4%—obviously not perfect, but undeniably effective. Our data supports this conclusion, as does the experience of hundreds of judges and thousands of participants in our communities.
- Of all participants admitted with substance use disorders, the most frequently identified primary substance of use was:
 - Heroin (29.2%)

- Amphetamines, including methamphetamine (17.5%)
- Cannabinoids (16.1%)
- Alcohol (15.8%)
- Cocaine (9.3%)
- Prescription opioids (6.5%)
- Fentanyl (3.3%)
- All others, *e.g.*, benzodiazepines, methaqualone, PCP (each less than 1%)
- Ohio’s specialized docket certification standards are drawn from national best practice standards. In 2018, the National Association of Drug Court Professionals updated its Adult Drug Court Best Practice Standards (<https://www.nadcp.org/standards/adult-drug-court-best-practice-standards>). These evidence-based standards represent 25 years of research in the fields of substance use disorders, pharmacology, behavioral health, and criminal justice.

IV. Data Collection and Analysis

Chief Justice O’Connor has championed and prioritized efforts to gather data on Ohio’s justice system and its outcomes, so that judges, policy makers, and the public can better assess the system’s effectiveness and fairness. In the upcoming biennium, the Court expects that trial courts will be providing data in sentencing documents that will allow for the collection of criminal sentencing data. This effort

is spearheaded by the Ohio Criminal Sentencing Commission with the help of many dedicated judges who participate in the planning for the data collection.

The Sentencing Commission is an affiliated office of the Court charged with examining Ohio's sentencing patterns and outcomes to develop policy recommendations for the General Assembly. Over the past year, the commission has undertaken the task of developing a statewide criminal sentencing database, the Ohio Sentencing Data Platform, to gather standardized, felony sentencing data as a substantial step toward a more transparent, fair, and effective criminal justice system. Funding for this promising initiative is part of the commission's separate GRF line item in the proposed budget, and its Director Sara Andrews is available to answer any questions you may have.

Also in 2020, Ohio was the one of the first two states to participate in a project on racial and ethnic disparities for certified specialized dockets with the Center for Court Innovation and American University's Justice Programs Office. The office's Racial and Ethnic Disparity Assessment Tool (RED tool) was designed to capture information about courts' operations and procedures, with an emphasis on examining areas where racial and ethnic disparities may exist. The project gathered data from 30 Ohio courts during July and August 2020 and produced a statewide aggregate report, which includes recommendations that are now being used to focus training, develop guidance and policies, and track overall metrics for the state.

These initiatives are only two examples of how Ohio’s courts and judges are not simply disposing of cases. The Ohio judiciary, with the assistance of the Supreme Court, is transforming lives, adapting to emerging challenges, and proactively ensuring that justice is not merely a mechanized procedure, but one that is tailored to the circumstances of each person who appears in court.

V. The Budget

The Supreme Court’s budget is a relatively small portion of the state budget, accounting for only 0.24% of the overall state budget in the upcoming biennium. Anticipating a more constrained fiscal environment, the Chief Justice directed that we prepare a conservative budget proposal, supporting items that are mandated or absolutely necessary.

For FY 2022-2023, the Court has submitted a total budget of \$412.9 million, which breaks down as follows:

- \$237 million (57% of the total), for statutorily mandated salaries of justices and judges;
- \$69.7 million (17%), for the salaries of employees of the courts of appeals; and
- \$106.2 million (26%), which includes the costs of the Supreme Court, from General Revenue Funds and other funds such as grants.

Another way of looking at the budget is to compare the personnel expenses with operational expenses. Of the Court's total request, \$372.7 million (90%) is allocated for personal services, the bulk of which are required by statute, while \$40.2 million (10%) is allocated for operational expenses. Included in these operational expenses are the costs of running and maintaining the Thomas J. Moyer Ohio Judicial Center and the Ohio Courts Network. They also include funds passed on to local courts and other non-profit justice system partners through technology grants and civil justice grants. Lastly, operational expenses are also funded by federal and other grants, such as the federal Court Improvement Program (CIP) and Department of Justice grants, all of which the Court receives and largely passes through to support local court operations.

The Court's budget remains largely the same as in the last biennium, with modest increases of 0.5% in 2022 and 2.2% in 2023. Much of the increase is due to judicial salaries set by statute and to rising costs of employee benefits and other program charge-backs required by the Department of Administrative Services or the Office of Budget and Management. Additionally, the increase in the Ohio Criminal Sentencing Commission's line item reflects its continuing efforts to serve as a vehicle for the betterment of Ohio's criminal justice system by growing its capacity for data collection and analysis, as addressed above.

VI. Conclusion

On behalf of Chief Justice O'Connor, the justices of the Supreme Court, and the judges of Ohio, thank you for the opportunity to present this budget. I am pleased to answer any questions you might have.