

# **PARCA Court Cost Study**

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## **UNIFIED BUT NOT UNIFORM: JUDICIAL FUNDING ISSUES IN ALABAMA**

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### **Introduction and Statement of the Case for Reform**

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In 1973, Alabama voters approved a new judicial article in what is widely considered the 20th Century's most successful effort at overcoming the flaws in Alabama's 1901 Constitution. Alabama became one of the first states to establish a unified judicial system, replacing what was little more than a collection of local and state courts that preceded it.

It is worth remembering what that pre-1973 "system" of judicial administration was like. As originally adopted, Article VI of the Constitution placed the Legislature in primary control of the judicial branch and its development. The Legislature held complete authority to create local courts, subject only to minimum demographic standards. Local and state court funding were completely separate and not even mentioned in the Constitution. While the Supreme Court had conditional authority to establish rules of procedure, its decisions were subject to legislative approval. The result was a very loose, and not very independent, confederation of courts.

The Constitution of 1901 did contain a Declaration of Rights that follows standard rules of judicial administration. These include an "open court" provision prohibiting the sale, denial, or delay of justice (Section 13) as well as sections prohibiting excessive fines (Section 15) and imprisonment for debt (Section 20). These provisions remain in the document.

The Constitution also contained provisions to control local variations in court procedures. Section 96 prohibited local court costs and charges, stating that any fees must be "applicable to all the counties in the state." Section 104 prohibited the Legislature from passing special, private, or local laws granting divorces, fixing the punishment for crimes, remitting fines, and regulating the timing of court proceedings or changes of venue.

The limits on local variation in court costs imposed by Section 96 proved to be temporary. Through local constitutional amendments and local legislation they were eroded in county after county, which has led to disparity in the cost of justice from one place to another.

The underlying goal of the 1973 reform was to create an adequately-supported, independent judiciary and a statewide judicial system with a predictable, transparent and uniform set of rules and procedures, one that citizens, businesses and lawyers can easily understand and trust to deliver timely and impartial justice in the cases that come before it.

To a large extent, these goals have been accomplished. Alabama's Unified Judicial System (UJS) has been held up as a model throughout the country for its efficient and effective handling of civil and criminal justice proceedings.

But fundamental principles of that reform have been undermined in recent years. Continuing constraints on funding now threaten the independence and effective functioning of the courts. The Legislature has rapidly shifted much of the cost burden for court operations to the courts themselves,

creating ever-rising charges, fees and fines. Those fees, fines and costs sometimes raise a financial barrier to accessing the civil court system. In criminal proceedings, the costs assessed against offenders have risen to a level that can be counterproductive to the ends of justice. And the UJS is not yet very efficient at collecting the money that is assessed in charges, fees, and fines; large sums are outstanding, and collection rates vary substantially from one county to another.

At the same time, old habits of Alabama governing – like tacking on extra fees through local legislation and earmarking the revenue for a wide variety of activities, some having little connection to judicial matters – have re-established the kinds of local variation and complexity that the 1973 reform sought to eliminate. The cost of justice varies from county to county, sometimes dramatically.

These developments suggest the need for a second wave of reform to address both the equity and the adequacy of judicial system finances. Among the issues:

- Beginning with Amendment 2, which allowed local court costs to be levied in Jefferson County, county after county has been removed from the uniformity principle for court costs that is contained in Section 96; this has occurred through 78 local constitutional amendments on the subject. There is no longer any uniformity in the rates charged and uses made of court costs. Since 1977 the legislature has passed 434 local acts establishing various fees and court costs in different counties. Taken together, these local amendments and legislative acts have created wide disparity. Filing fees in the highest-cost county can be double the amount charged in a county without local add-on fees.
- The percentage of the state’s judicial budget coming from general revenues has plummeted, squeezed out of the General Fund during the Great Recession. In 2013, only 2 percent of the UJS budget came from general revenues in the General Fund. Increasingly the users of the courts, through court costs and fees, are being asked to pay for themselves.
- The strategy of relying on increases in court costs to support judicial operations is not working. Increased charges enacted by the Legislature in 2012 were projected to bring in \$36 million annually, but in FY 2013, those increased charges only produced \$18 million.
- The funding pressure on the judicial system is unlikely to abate in the foreseeable future. The current judicial budget, which many in the judiciary complain is inadequate, is propped up with \$35 million of highway money that is intended to be temporary. Replacing this subsidy will be a tall order.
- The judicial system has become a collection agency, not only for itself but also for other branches of government. In 2011, local Circuit Clerks and the state’s Administrative Office of Courts collected \$166 million in court costs and charges. More than 40 percent of that total went to agencies other than the courts. These included activities directly related to the justice system (e.g., indigent defense, district attorneys, sheriffs and jails), but also unrelated purposes (such as county general funds, employee pay raises, and museums).
- The bulk of the money collected, \$111 million, was paid by offenders in the criminal courts. According to research by the U.S. Department of Justice, more than 80 percent of criminal defendants qualify as indigent. Offenders falling more than 90 days behind on paying assessments may have 30 percent added to the amount owed and be referred to the District Attorney for collection. Failure to

pay can result in incarceration, which can create conflicts with Sections 15 and 20 of the Constitution that prohibit excessive fines and imprisonment for debt.

- When offenders pay, the money normally comes in small installments over a long period of time. These payments are then distributed by allocation formulas based on exceedingly complex earmarks that vary from county to county. About two-thirds of the money collected by Circuit Clerks is distributed to the state, which has no internal audit procedures to check on the honesty and accuracy of the distributions, even though the Legislature is placing more of the judicial funding burden on such collections. This reflects a lack of attention to the fundamentals of sound collection procedures.
- Even in the counties with the highest collection rates, less than half of the court costs ordered are collected. Collection rates in the largest counties are around 25 percent. Civil caseloads in the courts are falling, and fines in criminal cases seem extraordinarily high on average but with dramatically low collection percentages (under ten percent).
- Despite recent hikes in court charges, the system as a whole is collecting less money. The combination of inefficient collection procedures and low collection percentages suggests that the point of diminishing returns has been reached, and that the state should avoid raising the rates charged to court users.
- Instead the focus should be on improving the economy and efficiency of collection efforts and reducing exorbitant charges. Creating a simple, standardized and transparent set of court costs and charges, and then focusing effective efforts on collecting high percentages of those reasonable charges, appears to be the best strategy to improve both the adequacy and equity of the state's judicial funding. This approach should appeal both to those who believe the courts should collect more, and those who believe court costs are too high.

In the discussion that follows, we describe key features of judicial funding in Alabama and connect them to fundamental issues of efficiency and fairness. We believe the analysis both makes the case for reform and points the way to improvement.

A variety of parties now have an ownership stake in the collection of court costs and charges; these include judges, clerks, district attorneys, indigent defense attorneys, sheriffs, municipalities, and county commissions. All tend to see the issues from their own perspective, which will make changing collection practices difficult. Nevertheless, it is crucial to develop a collection system in which all stakeholders cooperate for the greater good. Best practices for this purpose have been developed by the National Center for State Courts, and Alabama should make them the basis of its collection reforms.

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## Principles of Judicial Funding in Alabama

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Unlike the original judicial article built into the Constitution of 1901, the reformed Article VI that has been in the document since 1973 contains explicit funding principles for the judicial system. Understanding these principles is the first step for those who wish to improve judicial funding and administration in Alabama.

**1. The judicial system is unified.** The revised Section 139(a) of the Constitution of Alabama provides that *“the judicial power of the state shall be vested exclusively in a unified judicial system....”*

All states have judicial branches of government. Judicial activities are carried out through local trial courts and state appellate courts. Alabama and 25 other states have unified these court activities to promote efficiency and achieve judicial goals effectively. Unification is intended to bring uniform court administration and funding throughout the state, so that justice is equally available to everyone and on the most efficient terms. Without the uniformity that a unified court system is intended to promote, the constitutional “open court” guarantee of Article I, Section 13 – no denial or delay of justice – is not achievable. Thus, the term “unified” implies uniformity in funding as well as administration of the court system.

Other southeastern states with unified court systems include Florida, Georgia, Kentucky, North Carolina, and South Carolina.

**2. Appropriations should be adequate and reasonable.** In a unified judicial system, funding becomes the responsibility of the legislative branch of state government. This of course does not prevent the Legislature from requiring that some aspects of the court system will be funded by local taxpayers. It does, however, imply that any local funding component will be systematic and uniform.

The revised Section 149 of the Constitution of Alabama provides in part that *“Adequate and reasonable appropriations shall be made by the legislature for the entire unified judicial system, exclusive of probate courts and municipal courts.”* The key terms of this constitutional funding mandate are “adequate” and “reasonable.”

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### What’s Adequate?

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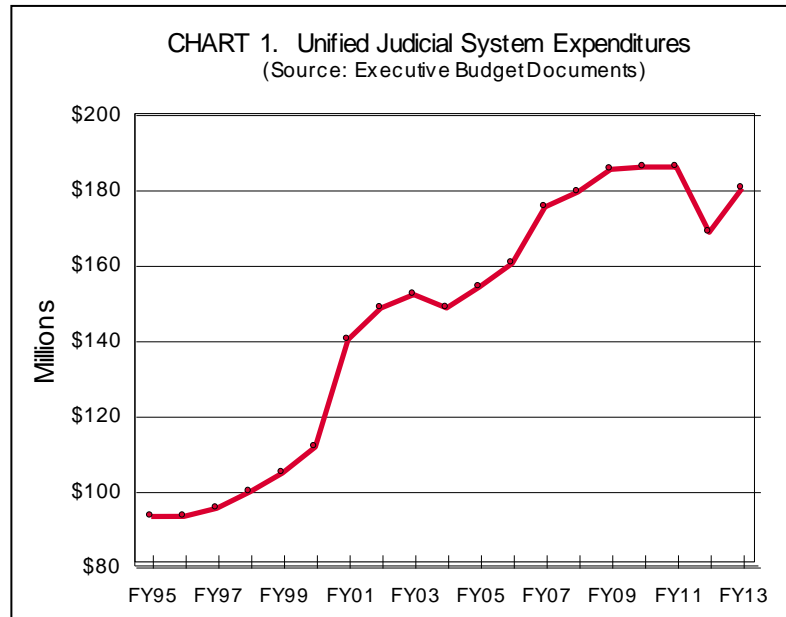
The Alabama Supreme Court has held that determining the amount of appropriations necessary for performing the essential functions of government is exclusively a legislative power, although it did note that “it would be within our purview to determine if the appropriations made are ... so inadequate as to constitute the taking of property (services) without due process of law....”<sup>1</sup> Adequacy, then, focuses on the Legislature’s responsibility to provide the resources needed to dispose of cases in a timely manner and with impartial justice to the parties involved.

In practical terms, the adequacy of judicial appropriations can be evaluated by looking at expenditure trends and interstate comparisons. A brief analysis is presented below.

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<sup>1</sup> *Sparks v. Parker*, 368 So. 2d 528, citing *Abramson v. Hard*, 229 Ala. 2, 155 So. 590.

**Chart 1** shows the expenditures of the Unified Judicial System (UJS) from Fiscal 1995 to date. The UJS is essentially the trial court level of the judicial branch; it includes the Administrative Office of Courts, trial courts, juvenile probation, judicial building costs, drug court operations, and the Alabama Sentencing Commission. The trend line of the Chart indicates a general pattern of increasing appropriations over time, but with noticeable exceptions during periodic recession years. What has caused UJS expenditures to rise?



The judicial branch exists within a state government that has three coordinate branches, and it does not control all the factors that drive its costs. In particular, judicial expenditures consist mainly of salaries and associated costs that are sensitive to decisions about personnel-related matters often made in the other two branches of state government.

The following factors have contributed to the growth of UJS expenditures:

- Assumption of juvenile probation.** Act 98-392 provided that “It is the intent of the Legislature that a comprehensive system of juvenile probation services be developed, implemented, and administered statewide by the Administrative Office of Courts.” Under the terms of this 1998 legislation, juvenile probation officers in counties with populations of 99,000 or less became state employees; larger counties (other than Mobile, which the law treated as a small county) were given population-based subsidies to cover juvenile probation activities. The initial impact of assuming this responsibility can be seen in the large FY01 increase in Chart 1, when the act became fully operational. In the most recent non-recession years, juvenile probation expenditures exceeded \$20 million a year.

- Uniform pay plan for judges.** Act 99-427 created a uniform statewide pay plan for judges. To cover the costs of this plan, the act provided that:

“there is appropriated to the Unified Judicial System from the State General Fund the following amounts: For fiscal year 2000-2001, nine million five hundred thousand dollars (\$9,500,000); for fiscal year 2001-2002, twelve million five hundred thousand dollars

(\$12,500,000); for fiscal year 2002-2003 and each subsequent fiscal year thereafter, fourteen million one hundred thousand dollars (\$14,100,000).

Executive Budget documents included these statutory appropriations for FY01 and FY02, but the costs of the judicial pay plan were not itemized in the budget for any subsequent fiscal year. Act 99-427 did raise certain court charges and allocate the revenue to the General Fund for the financing of the judicial pay plan. However, the revenues from this source amount to less than \$12,500,000 today.

While it may be argued that the \$14.1 million appropriated annually by Act 99-427 have in effect been included in the general appropriations made available to the UJS, there is no earmarking of the money promised in 1999. Normal practice would be to carry the appropriation directly as the legislation calls for, and as was done in the first two years. Otherwise, this is another potential example of an unfunded mandate for the Unified Judicial System that increases each year.

- **Additional judgeships.** Since 1995, the Legislature has passed laws creating 15 additional circuit judgeships and 10 additional district judgeships. According to AOC estimates, a circuit judgeship costs \$430,000 a year when staff and operating factors are included, and a district judgeship costs almost \$360,000. Using these figures, the cumulative effect of the new judgeships exceeds \$10 million a year.

- **Employee pay raises and increases in fringe benefit costs.** Employees have received across-the-board pay raises eight times since FY95, with a percentage increase totaling 33% over that period. Employee fringe benefit percentages (insurance, retirement, and other) have risen from about 26% of payroll to 39% over the same timeframe. These increases total 46%; generally speaking, the cost to the UJS of supporting each employee has also grown by that percentage.

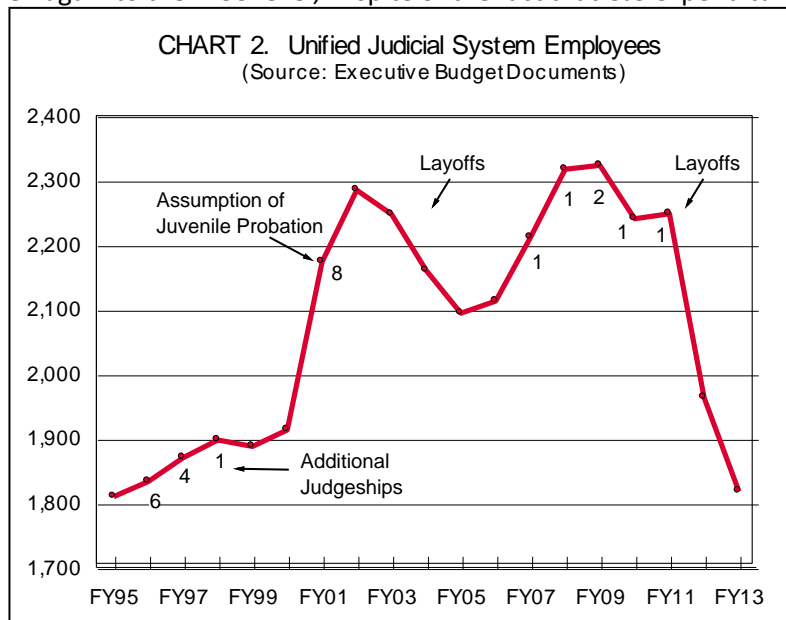
In late June, 2014, AOC notified its personnel that 5% salary adjustments would be instituted as provided by the UJS personnel system. (Merit increases for FY 2014 for up to 5% of an employee's salary were also announced unless the employee had topped out of their classification.) AOC requested the circuit clerks and presiding judges agree to provide funding for the salary adjustment from their local circuit clerk and presiding judge judicial administration funds created by the court cost increases in 2012. Not all circuits agreed to this process. Some had already committed these funds to pay for current personnel in their offices and could not afford an additional annual burden and COLA each year. (See discussion associated with Chart 2 below.) Others did not have adequate revenues to make these commitments due to the decrease in revenue from filing fees and local court costs, as is also discussed herein. These local administrative funds will now be permanently tied to these adjustments and will arguably not be available to provide additional funds for local court operations.

- **Debt service on the judicial building.** The state began work on a new headquarters building for the judicial branch in 1990. The Legislature created a judicial building authority to pay the debt service. Appropriations from the general fund from the Capital Improvement Fund were initially used to pay these annual debt payments through FY 2004, but in the years since the UJS has had to cover the payments out of its general fund operating appropriations for the trial court system. The administrative office of courts (AOC) is located in the basement of this building and partially occupies a corner of the first floor. AOC pays a portion of the utilities and maintenance costs for the occupation of this building and in fact, also provides administrative services to the appellate courts and clerks' offices within that building; AOC receives no administrative fee for providing these services.

Except for FY 2008 (when the bonds were apparently refinanced), the UJS has paid from its decreasing general fund obligation no less than \$3,975,000 annually and as much as \$4,066,764 (FY 2005.) The legislature provides no appropriation to the UJS for this annual debt payment the trial court .The payment schedule extends through FY 2019 and is projected to have cost the UJS more than \$27 million from the trial court operating budget thru FY 2013.

In real terms, these added cost burdens should be factored out of the growth trend for the UJS that is shown in Chart 1. When they are taken into account, the increase is far smaller than Chart 1 conveys. The reality is that more dollars are required today for the UJS to continue providing the level of court services that were provided in earlier years. This is an example of “having to run harder to stay in the same place.”

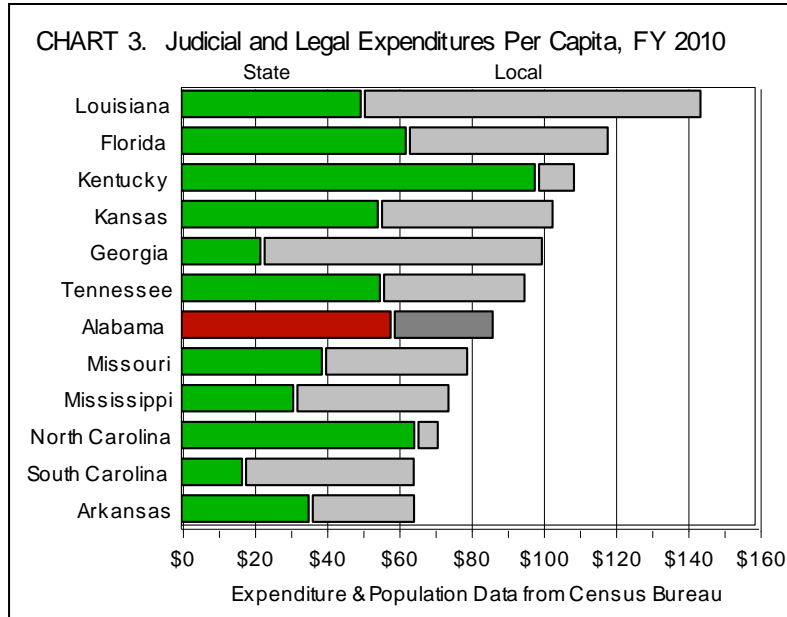
**Chart 2** pictures this situation by looking at the number of UJS employees over time. In FY95, there were just over 1,800 UJS employees. Employment rose to about 2,300 over time, as juvenile probation was assimilated and judgeships with the associated staffing were added; but the number of employees has fallen again to the FY95 level, in spite of the fact that UJS expenditures have grown.



The FY13 data actually overstate the number of employees that the system can afford, because they include personnel who remain employed only through financial support from counties. These supported positions are included in the “professional standards” budget item of the UJS; in the FY13 budget, this item contains \$17.7 million of salaries, benefits, and operating costs. Without subsidies from the counties, UJS employment would have fallen more than Chart 2 indicates in recent years.



Another benchmark for evaluating the adequacy of judicial appropriations is an interstate comparison of per-capita expenditures, as shown in **Chart 3**. The data are from the Census Bureau. The Census data combine judicial outlays with other kinds of legal expenditures, mainly for district attorneys, and there is no way to remove the non-judicial information. We assume generally that the two types of



expenditures are consistent with one another, which means that Alabama’s judicial ranking is portrayed accurately.

The big advantage of the Census approach is that it is the only data source including both local and state expenditures for judicial activities. The importance of this can be seen by looking in Chart 3 at Georgia and North Carolina, which differ dramatically in court funding methods. Georgia utilizes a lot of local funding, whereas North Carolina relies heavily on state funding. The same diversity of state vs. local funding also can be seen in South Carolina and Kentucky. Any analysis of judicial expenditure rankings not taking these differences into account would distort the comparison. For example, if we looked only at state funding, Georgia and South Carolina would appear to rank lower on judicial expenditures than is actually the case.

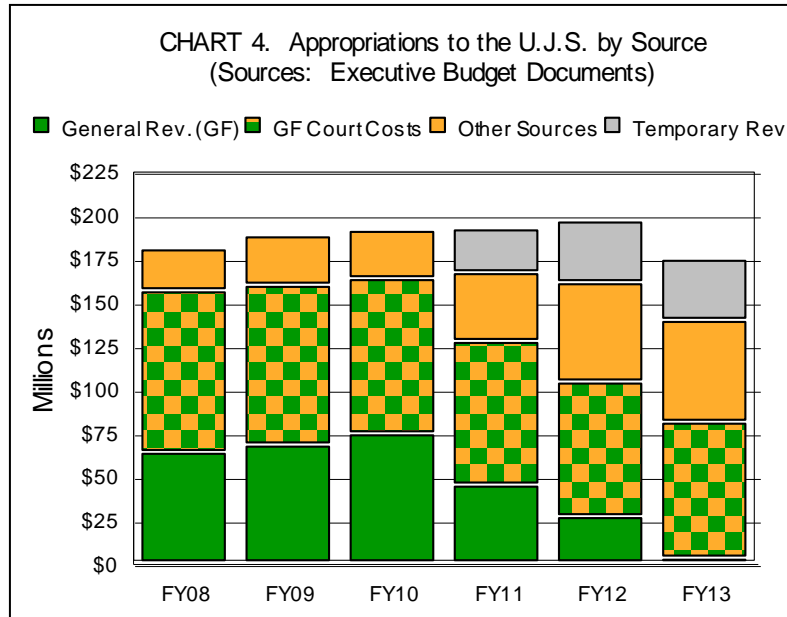
Using these Census data, Alabama ranks seventh in judicial and legal expenditures per capita among the twelve states shown. Among our neighbors, Alabama spends less per capita than Tennessee, Georgia, and Florida, and more than Mississippi.

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## What's Reasonable?

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The constitutional term “reasonable” focuses attention on how an adequate level of funding is achieved. The courts are of general benefit to the society, and it follows that a significant portion of judicial appropriations should come from general revenue sources. Historically this has been the case in Alabama, even though the state has a very small general fund and most activities are funded from earmarked revenues. However, the economic difficulties of recent years have led the Legislature to steeply reduce the allocation of general revenues to the UJS while increasing the reliance on court fees and temporary revenue sources, as shown in **Chart 4**.



The bars in Chart 4 have four components, representing broad sources of revenue to fund the UJS. The green bar segments at the base of the chart are the general revenue component of UJS funding, which has diminished rapidly. General revenues for the UJS consist of General Fund appropriations less the court-cost revenues contributed by the courts to the General Fund. In the first three years shown in the chart, prior to the deep reductions in overall revenue to the General Fund, the general-revenue component of UJS funding averaged \$68 million a year -- 36% of the money allocated by the Legislature to the UJS. Steep reductions began in FY11, and by FY13 the general-revenue component of UJS funding had fallen to less than \$3 million -- 2% of UJS appropriations.

The mixed green-orange bar segment represents the court-cost revenues that are deposited in the General Fund. While these revenues are not allocated directly to the UJS, it is sensible to isolate the courts' contributions to the General Fund as a benchmark for measuring the size of legislative appropriations to the courts. Court-cost revenues contributed about \$89 million a year to the General Fund in the first three years shown in Chart 4; with the economic downturn, this fell to about \$79 million a year in the last three years of the chart. If these revenues are considered as part of the General-Fund allocation to the UJS, their share of UJS appropriations was larger than any of the other sources shown in Chart 4, ranging from around 40% to around 50% of the total.

The orange bar segment represents other continuing sources of UJS appropriations, which consist of earmarked fees and tax revenues, local contributions, and federal grants. In the first three years shown in Chart 4, these sources contributed around \$20 million or 11% of UJS appropriations. Local contributions to the state's Administrative Office of Courts (AOC) increased substantially beginning in FY11, in order to mitigate layoffs of state court personnel through funding agreements that preserved personnel positions in local courts. In 2012 the Legislature increased court costs to bolster UJS appropriations, earmarking the revenues to a new Judicial Administration Fund. As a result of these actions, UJS appropriations from other, earmarked sources rose to \$52 million or 30% of the total in FY13.

The gray bar segment of Chart 4 represents temporary revenues, mainly highway revenues, allocated to the UJS beginning in FY11. In each of the following years, highway funding for the UJS has amounted to \$35 million. Without this temporary fund source, UJS funding would have dropped by 27% from FY10 to FY13.

It is inevitable that the temporary subsidy from highway funds will end. The Legislature then will face the issue of whether to increase permanent UJS funding to pre-existing levels, and if so what funding sources are reasonable to draw on.

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### **Creating the Appropriate Funding Balance**

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As Chart 4 makes plain, in recent years general revenues have declined precipitously as a source of UJS funding, while the reliance on court costs has increased substantially. This has moved Alabama away from the traditional balance between these two types of funding sources for the courts. The question is: What is the appropriate balance between general and fee revenues for the courts?

It is appropriate to levy charges or fees to cover some portion of court expenses. Users of the civil courts receive individual benefits from their access to adjudicatory services. Those who come before the criminal courts are not there by choice, but they do bear some burden of responsibility for maintaining a responsive court system. There is also a general public interest in an effective justice system that contributes to economic and community development. This argues strongly for including significant general revenue funding.

The Conference of State Court Administrators (COSCA) has adopted a set of principles related to court funding and published them in a 2012 report.<sup>2</sup> The first principle relates to funding balance:

*Courts should be substantially funded from general governmental revenue sources, enabling them to fulfill their constitutional mandates. Court users derive a private benefit from the courts and may be charged reasonable fees partially to offset the cost of the courts borne by the public-at-large. Neither courts nor specific court functions should be expected to operate exclusively from proceeds produced by fees and miscellaneous charges.*

The second principle is to prevent court costs from becoming an excessive burden on those who come before the courts, creating a limitation on accessibility to justice. The COSCA report states that:

*Fees and miscellaneous charges cannot preclude access to the courts and should be waived for indigent litigants.*

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<sup>2</sup> Council of State Court Administrators, "2011-1012 Policy Paper: Courts Are Not Revenue Centers."

There is a relationship between accessibility to the courts and the ability to collect fee revenue. In criminal cases, nonpayment rates rise when court costs are so high that they create an excessive burden on those who are brought before the courts. In fact, reduced levels of collection may be the primary way to evaluate whether criminal court charges have become too burdensome. For civil courts, reduced numbers of filings may be an indicator that the cost of litigation has become excessive.

The third principle recommended by the COSCA report is that courts should not become fee collectors for other governmental agencies and functions. The report states that court costs “should only be used to fund justice system purposes.”

Under this standard, it is appropriate to levy charges to court users that bear some reasonable relationship to the costs of court services, as long as the revenues are used as funding sources for those services. However, it is not appropriate to make the courts into convenient tax collectors for other, non-judicial activities where there is no relationship between the charge to be paid and the activities to be funded, and between those who pay the charge and those who receive the benefit. Court charges levied for unrelated activities create a burden without in return either providing a benefit or meeting a responsibility for those who are before the courts.

Court charges are commonly used to fund non-judicial activities in Alabama. Some of these charges bear a relationship to judicial purposes; others clearly do not. The following examples illustrate the variety of purposes served by court charges. They are drawn from a compilation created by the Alabama State Bar:

- A local constitutional amendment for Lamar County, ratified in 2002, levies court costs upon misdemeanor drug convictions to provide for the operation and maintenance of the Sheriff’s canine unit.<sup>3</sup>
- A local act passed in 2000 for Madison County raises the Sheriff’s fees for serving court papers, to fund pay raises for sheriff’s deputies and also for all county employees.<sup>4</sup>
- A 1998 local act for Tuscaloosa County levies court costs in criminal felony cases to fund a crimestopper’s reward compensation program.<sup>5</sup>
- A 1996 local act for Houston County levies additional court costs on those convicted of criminal offenses, including traffic violations, to fund expenses for the care and maintenance of children.<sup>6</sup>
- A 1991 local act for Lawrence County levies court costs in all circuit and district cases and allocates the revenue to fund the county historical commission.<sup>7</sup>
- A local constitutional amendment for Chambers County, ratified in 1988, levies court costs on those convicted of drug offenses and allocates the revenue to a fire and rescue fund.<sup>8</sup>

Court charges levied to fund activities that bear no relationship to judicial purposes diminish the capacity to levy fees that could form part of the funding for judicial system activities. While legislation has been introduced in the last two (2) sessions for the UJS to retain all costs, fines, and fees it collects,

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<sup>3</sup> Amendment 710, Constitution of Alabama of 1901.

<sup>4</sup> Act 2000-447.

<sup>5</sup> Act 1998-656.

<sup>6</sup> Act 1996-642.

<sup>7</sup> Act 1991-274.

<sup>8</sup> Amendment 446, Constitution of Alabama of 1901.

this option is not a viable one because of the harmful effect it would have on local governments and other state agencies who depend on the court revenues to fund their operation. Yet UJS receives no benefit from this collection service.

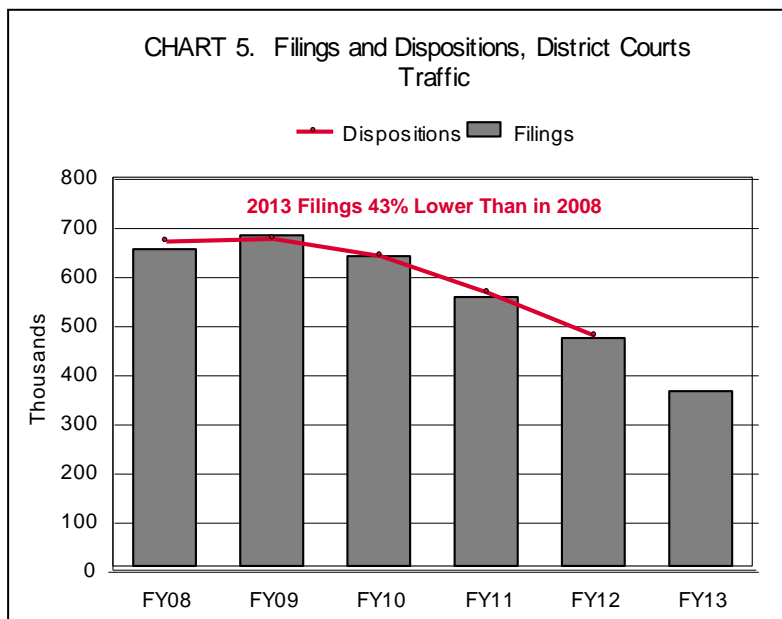
Court-cost collections in Alabama are substantial. In the five-year period from 2009 to 2013, circuit clerks in Alabama courts reported collections of around \$160 million a year, as shown in **Table 1**.

**TABLE 1. Court Cost Collections, FY 2009-FY 2013**

	2009	2010	2011	2012	2013
<b>CIRCUIT COURTS</b>					
Domestic Relations	\$ 7,231,774	\$ 7,588,578	\$ 7,610,356	\$ 8,032,852	\$ 8,429,718
Civil	17,634,733	17,504,498	16,241,319	15,113,649	16,118,033
Criminal	22,166,087	22,767,084	23,236,841	23,368,346	23,384,825
<b>Circuit Total</b>	<b>\$ 47,032,594</b>	<b>\$ 47,860,160</b>	<b>\$ 47,088,516</b>	<b>\$ 46,514,846</b>	<b>\$ 47,932,576</b>
<b>DISTRICT COURTS</b>					
Traffic	\$ 70,855,718	\$ 74,165,827	\$ 71,880,947	\$ 66,630,094	\$ 62,357,788
Criminal	17,569,471	16,895,282	16,302,642	16,816,508	18,449,924
Small Claims	11,339,908	11,520,882	9,768,950	9,760,895	10,329,798
Civil	15,011,342	14,840,577	14,259,981	14,050,975	14,163,877
Juvenile	1,645,636	1,613,243	1,485,199	1,347,435	1,356,122
Child Support	407,051	421,063	393,528	357,848	288,779
<b>District Total</b>	<b>\$ 116,829,126</b>	<b>\$ 119,456,874</b>	<b>\$ 114,091,247</b>	<b>\$ 108,963,755</b>	<b>\$ 106,946,288</b>
<b>TOTAL COLLECTIONS</b>	<b>\$ 163,861,721</b>	<b>\$ 167,317,034</b>	<b>\$ 161,179,764</b>	<b>\$ 155,478,601</b>	<b>\$ 154,878,865</b>

About 30 percent of these collections come from the circuit courts and 70 percent from the district courts. Total collections have declined by about 8 percent since 2010. District-court traffic cases, which represent more than 60 percent of total collections, have declined by 16 percent over this period, which represents a serious risk to the funding of courts and court-related functions.

**Chart 5**, which pictures a steeply declining trend in traffic filings, suggests reason for concern. Traffic filings have fallen more steeply than revenues because collections are derived from cases in all past years and thus tend to trail the trend in current-year filings. This suggests that revenues will continue to decline in future years. The apparent cause of the decline is the rise in traffic collections by municipal courts, which drains revenues from the district courts and from the court system and related agencies. A comparison of tickets written by the Department of Public Safety over the last five fiscal years also reflects that the decline of law enforcement on our state roadways may have also contributed to this decline. Only 289,757 tickets were issued in FY 2013 compared to 411,086 in FY 2012 and 436,802 in FY 2011.



Another \$5 to 6 million of court fees are collected directly by the state each year and do not flow through the reports of the circuit clerks. These include charges for information provided through the State Judicial Information System and for electronic court filings that are earmarked to the Court Automation Fund, the revenue from which is appropriated to the UJS by the Legislature.

**Table 2** provides an analysis of the ways in which court charges are distributed in Alabama. It was developed by analyzing the court cost collections reported by court clerks in FY 2011 on forms they transmit to the State Comptroller, as well as the fees collected directly at the state level by the AOC. The allocations are categorized according to the entity that receives the revenues, since the purpose of the analysis is to describe the extent to which court charges are used to fund non-judicial activities of government.

In the lower right corner, the table shows that, of \$166 million collected through court charges in FY 2011, only 59% (\$97 million) was allocated in a direct way to the UJS. For clarity, an asterisk is placed beside the rows that are defined as containing court-cost revenues allocated to the UJS. This is a generous estimate of the UJS share of court-cost revenues. In addition to \$6.4 million of court charges earmarked at the state and local levels for the courts, it includes \$3.1 million allocated to court clerks, who are the primary collectors of these charges, \$5.5 million in AOC collections, and \$82.3 million of court-charge revenues deposited into the State General Fund. Court costs allocated to drug court activities are excluded from the UJS share because they primarily cover add-on costs for various pre-trial, drug testing, and supervisory activities associated with those courts; the drug courts themselves are funded by a General Fund appropriation to the UJS.

The table suggests two potential issues for court costs in criminal cases. First, it shows that seven of every ten dollars of court charges collected by court clerks in FY 2011 came from the criminal courts (\$111 million out of \$160 million collected). These charges are paid by defendants in criminal cases. The large volume of these collections may indicate that the burden of criminal court charges is too high.

**TABLE 2. Allocation of Court Cost Collections, FY 2011.**  
(Source: PARCA staff calculations)

<b>Clerk Transmittal Reports -- State Allocations</b>			
<b>Allocated to:</b>	<b>From Criminal Courts</b>	<b>From Civil Courts</b>	<b>State Totals</b>
<b>General Fund</b>	\$ 52,413,129	\$ 29,839,255	\$ 82,252,384 *
<b>Courts</b>	2,182,844	778,309	2,961,153 *
<b>Fair Trial Tax</b>	12,060,881	4,795,061	16,855,942
<b>Other</b>	10,175,650	14,704	10,190,354
<b>State</b>	\$ 76,832,504	\$ 35,427,330	\$ 112,259,833

<b>Clerk Transmittal Reports -- Local Allocations</b>			
<b>Allocated to:</b>	<b>From Criminal Courts</b>	<b>From Civil Courts</b>	<b>Local Totals</b>
<b>Courts</b>	\$ 2,640,569	\$ 815,318	\$ 3,455,886 *
<b>District Attorneys</b>	14,783,992	1,622,557	16,406,549
<b>Sheriffs/Jails</b>	6,067,049	1,944,769	8,011,817
<b>Counties</b>	2,323,204	3,939,557	6,262,762
<b>Clerks</b>	2,125,013	1,061,687	3,186,700 *
<b>Drug Courts</b>	2,309,300	852,706	3,162,006
<b>Law Libraries</b>	1,660,842	1,082,775	2,743,617
<b>Cities</b>	1,525,216	1,303	1,526,520
<b>Other</b>	1,380,183	2,453,631	3,833,814
<b>Local</b>	\$ 34,815,368	\$ 13,774,302	\$ 48,589,671
<b>Clerks' Total</b>	\$ 111,647,872	\$ 49,201,632	\$ 160,849,504
<b>Court Percentages</b>	53%	66%	
<b>Direct AOC Collections</b>			\$ 5,500,000 *
<b>Grand Total</b>			\$ 166,349,504
<b>Court Percentages</b>			59%

The table also shows that of the revenues produced by criminal-court collections, only 53% were allocated back to the courts directly. This may suggest that the criminal courts function too much as revenue collectors for activities with little relationship to judicial purposes.

Court clerks collected an average of \$47.5 million of civil court charges in the last three fiscal years, with roughly two-thirds allocated to the courts. While the courts' share of these revenues is higher than in criminal cases, the question of appropriate allocation remains relevant. The charges are paid by litigants who desire access to justice through court proceedings; they may be denied that access if the burden of court costs is too high.

Several circuits are currently utilizing a "pay docket" approach to address collection of fines, fees, costs and victim's restitution in criminal cases. One judge in Tuscaloosa uses locally created forms to monitor these cases on a periodic basis. More than 300 individuals appear for these dockets to either submit proof of payment or make payments as ordered. More than \$220,000 was collected in a calendar year by this one court's docket. The funds generated provide funding for local court staff. However, this docket requires constant involvement with the judge's administrative staff in conjunction with the clerk's office and probation staff.

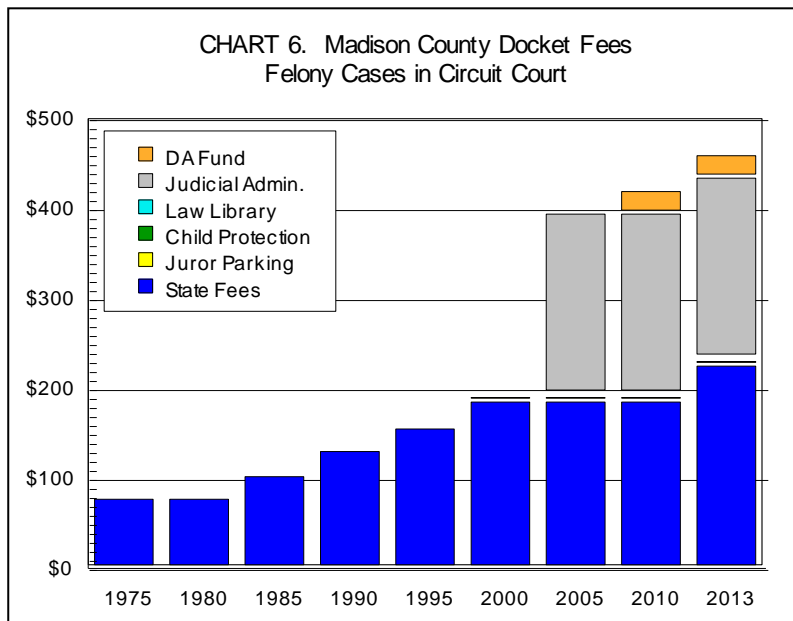
The Office of Indigent Defense (OIDs), created in 2011, has also begun to institute efforts to recoup fees for legal services provided by that system. The Fair Trial Tax Fund (FTTF) was added as a court cost in the mid 1970's to provide a source of payment for indigent defense services. Prior to the creation of OIDs, the cost of those services to the state was roughly triple the amount collected by the FTTF court costs collected in the past fiscal years. OIDs has worked with the court system to provide new procedures during the last three fiscal years for these appointed legal services. Recoupment of these fees by a court order provides unrestricted revenue to the state general fund.

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**Placing Reasonable Limits on Court Fees**

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How high are the fees actually charged to cases placed on the dockets of criminal and civil courts in Alabama, and how much have they increased over time? The fees vary from county to county. **Charts 6 and 7** portray the increases since 1975 in docket fees for certain kinds of criminal and civil cases in Madison County. The charts show both statewide and local docket fees. The statewide fees are in blue. Statewide docket fees for felony cases in circuit courts have risen from \$75 to \$225 since 1975, and in recent years local docket fees have been levied that double the burden of these charges, to \$459. The uses of these local add-on revenues are summarized in the legend.



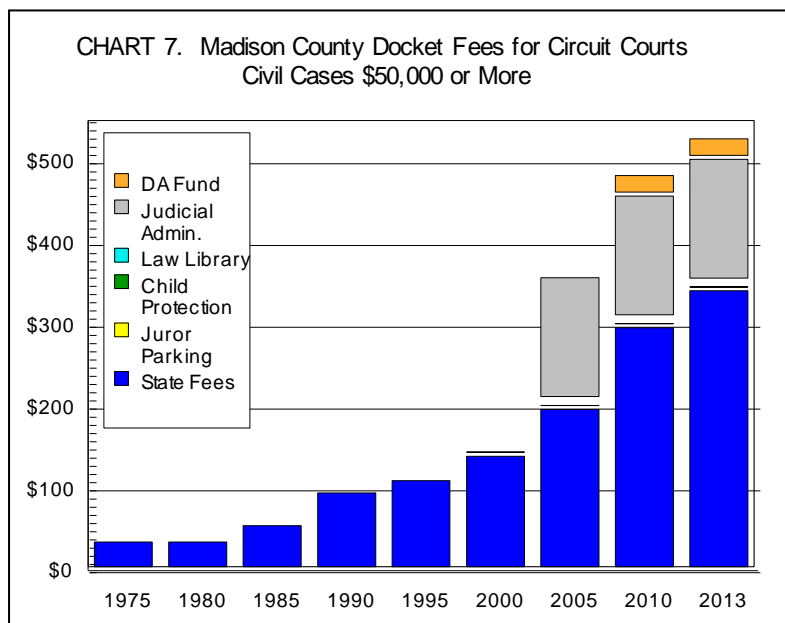


Statewide docket fees for civil cases of \$50,000 or more have risen from \$35 to \$342 since 1975, and in recent years local docket fees have been levied in Madison County that increase the burden of these charges by more than 50%, to \$528. The purposes for which these local add-ons have been created are summarized in the legend.

Madison County appears to have the highest levels of local docket fees in the state; on the other hand, Marengo County has no local docket fees that add onto the statewide fees shown in blue. The other counties are between these extremes, depending on local legislative enactments. Charts 5 and 6 therefore picture the range of filing fees for the types of cases shown, from high to low.

A felony defendant in Alabama’s Unified Judicial System faces docket fees of \$225 if taken to court in Marengo County, more than double that amount (\$459) if taken to court in Madison County, and varying amounts between these two in the other counties.

Anyone who wishes to litigate a civil matter of \$50,000 or more in Alabama’s Unified Judicial System must pay \$342 in docket fees if the suit is brought in Marengo County, \$528 (54% more) if the suit is brought in Madison County, and varying amounts in between, depending on local legislation for a given county.



However, these are not the only fees that apply to matters coming before the courts. For example, in the civil cases shown in Chart 6, there is an additional statewide fee of \$297 for any counterclaim, cross claim, third party complaint, third party motion, action for declaratory judgment, or motion to intervene in civil cases; a fee of \$100 for each additional plaintiff; and a \$50 fee for certain dispositive motions.

Fees in criminal cases can pyramid to very high levels. With the help of clerks, lawyers and judges, we constructed this hypothetical example of an offender arrested for possession of one ounce of marijuana in Shelby County, a Class C Felony.

Typical bond such a case would be \$15,000. An offender would need to come up with \$1,500 to pay a bail bondsman but would also owe the state at least \$560 in bond fees. The standard criminal circuit court docket fee in Shelby County is \$391, which is a total of 20 different fees collected for a variety of purposes. Drug cases require an additional \$100 fee, which is designated for the Alabama Department of Forensic Science. Drug conviction is a case like this would also be subject to a mandatory Drug Demand Reduction Assessment of \$1,000 for first offenders and double that for repeat offenders. That money goes to the Department of Corrections for drug treatment programs.

This offense carries a minimum fine of \$40 and a maximum fine of \$15,000. If the defendant has an attorney appointed to represent him, the state can seek \$500 in reimbursement. The state also allows the court to charge a defendant \$20 a day for housing in jail. Shelby County typically charges a one-time \$20 flat fee for jail housing.

A conservative estimate of the court costs, fees and fines on this single charge would be \$2,611. On a first offense, the defendant might be sentenced to two years' probation, which also carries with it a charge of \$40 a month. The offender also may have to pay fees for drug testing and counseling.

To pay what he owes, the offender enters into an agreement with the court to pay a certain amount each month toward his outstanding balance. If he doesn't comply and falls behind more than 90 days, his case is referred to the District Attorney for collection. That referral adds another 30 percent to the total, or \$600, if the offender has an outstanding balance of \$2,000.

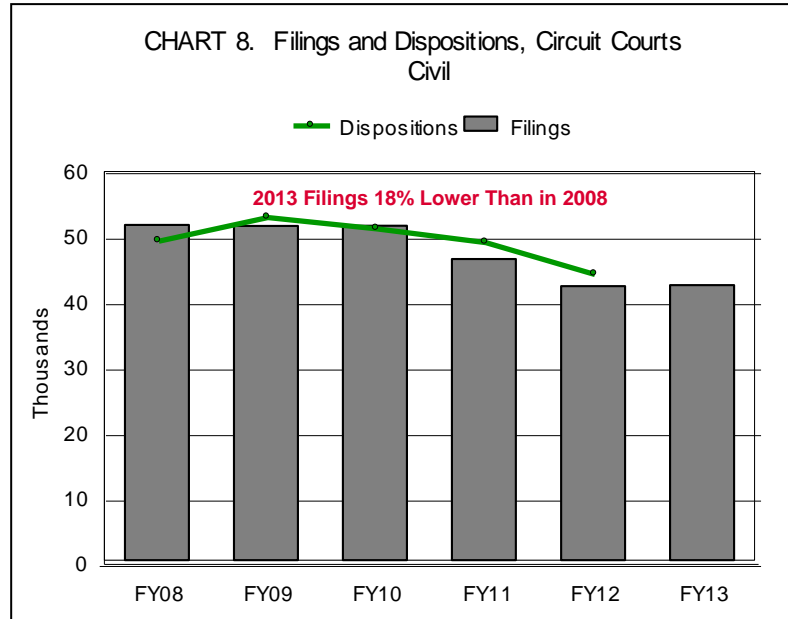
In the meantime, the offender is dealing with another problem. The offense comes with an automatic six month driver's license suspension, a situation that creates complications in trying to keep a job. At the end of that suspension, to get a license back a drug offender must pay a special reinstatement fee of \$300.

We sought opinions about the overall reasonableness of court costs in both criminal and civil matters through an online survey of local officers of the Alabama Bar Association. The survey was answered by 58 of 161 attorneys. Among respondents, 79 percent said that court costs in civil cases are too high, with 74 percent responding that high court costs in civil matters have discouraged clients from filing suits. Comments from survey responses indicate that it is not unusual for clients with valid claims to decline filing lawsuits because of the level of court costs.

Caseload data from Alabama's circuit courts show a declining trend in civil filings since 2008, which may be evidence of the impact suggested by respondents to our survey. **Chart 8** shows the data, and indicates that the decline is not due to a backlog of cases, since dispositions have kept pace with filings over the period. High court costs may be a factor in the decline.

The Executive Budget Office for the State of Alabama confirms this downward trend in its annual review of demand for services for state government units. The total UJS/AOC caseload figures compared over the last five fiscal years reflect the total of cases in FY 2013 was 1,814,366 compared to 2,039,383 in FY 2012, 2,2489,10 in FY 2011, 2,589,067 in FY 2010 and 2,611,460 in FY 2010.

Survey respondents were particularly critical of high costs in domestic relations cases, where basic modifications like changes to custody arrangements can require paying more than \$300 in court costs.



One respondent said he had clients needing to modify custody arrangements who have had to put off filing a court action so that they can save the money required to pay the court costs.

On the criminal side, 59 percent of respondents said they have had a client who was jailed for non-payment of high court costs, fees or fines. In most cases it was failure to pay a monthly probation supervision fee (\$40) that led to the jailing.

One lawyer complained that clients who have jobs making minimum wage can be faced with a choice of keeping their house and caring for their family or paying their fines and costs. “Alabama’s court system doesn’t do a good job of discerning which people are able to pay and don’t, and those who are unable to pay,” he wrote, and continued that the court system does not systematically address ability-to-pay issues that people have.

It is clear from these data that high court costs are an issue that should be explored in creating a balanced funding model for the judicial system. Under the procedures for adopting local legislation, committee review of local court cost bills does not involve consideration of the amounts charged or the purposes for which the revenue can be spent. There are no legislative caps on court fees, no requirements to relate the amount charged to the costs being offset, and no standards to limit how the resulting revenue can be used. Each of the local acts creating add-ons to statewide court costs is considered separately, without reference to the statewide impacts such as non-uniformity in the administration of justice.

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## Uniform Court Costs: Principle vs. Practice

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Section 96 in the Constitution of 1901 contained a policy of statewide uniformity for court charges. This section, still present in the Constitution, provides that:

*The legislature shall not enact any law not applicable to all the counties in the state, regulating costs and charges of courts, or fees, commissions or allowances of public officers.*

In addition, Section 104 of the Constitution lists 31 additional subjects, many of them court-related, that can only be addressed through general laws that apply statewide. These subjects include the granting of divorces and adoptions, specifying the timing for civil or criminal actions in the courts, providing for a change of venue in any case, fixing the punishment for crimes, exempting property from taxation, and remitting fines and forfeitures.

The first principle underlying uniformity in these matters is equal treatment of the laws. The COSCA report, citing the American Bar Association's 1974 Standards Relating to Court Organization, states that:

*Courts should have uniform processes, and litigants should receive consistent treatment regardless of the court's locality. The amount of fees and miscellaneous charges should be established on a rational basis throughout a state and should not be more or less costly for a litigant simply as a result of venue and jurisdiction.*

The COSCA report goes on to note that "in criminal cases, differential treatment in different localities by statute is clearly subject to equal protection challenges." In civil cases, the equal-treatment argument focuses on avoiding differential limitations on accessibility to the courts.

A second principle underlying the argument for uniformity in court costs is the promotion of economic development through transparency and simplicity in judicial practices, so as to minimize interference with the economy. This argument has become stronger as Alabama grows more urban and the economies of its counties more interrelated.

Despite these strong arguments for uniformity, court costs have become less and less uniform over time. Constitutional Amendment 2, adopted in 1912, authorized the Legislature to pass general or local acts to regulate court costs and charges in Jefferson County, effectively nullifying the uniformity policy of Section 96 there. In the years since, 77 other local amendments have been adopted that allow local court charges in addition to those authorized by general acts of the Legislature. As a result, local court costs are permitted in all but a few of the state's 67 counties, and the Legislature has taken full advantage of the potential to levy them.

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## Collecting Court Costs

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Across the United States, there is increasing support for including court charges along with general revenues in a balanced approach to judicial funding. Traditionally, Alabama has followed a balanced financial approach that mixes general revenues with court charges. However, economic difficulties in recent years have severely impacted the State General Fund, leading the Legislature to increase reliance on court charges for judicial funding and to insert temporary revenue sources that

must be replaced in the near future. In addition, legislative delegations from various counties have sponsored bills that raise local court charges not only to supplement the funding of their courts, but also to fund other activities – some of which are related to the courts, while others are not.

In its efforts to increase the revenue from court charges, both statewide and locally, the Legislature has thus far focused almost exclusively on raising the rates of those charges, rather than on improving the percentages of assessments that are collected. Returning to a more balanced approach for judicial funding will require paying attention to collection practices as well as the rates charged. Raising the amounts charged to court users is not a good strategy when it begins to reduce the percentage of charges collected. When rate increases create high burdens on those who come before the courts, they also make it harder to collect charges, particularly for criminal defendants. In such circumstances, focusing on the implementation of best practices for collecting court charges can make it possible to increase collections without raising rates, and to reduce high burdens on court users without necessarily reducing collections in a significant way.

Court clerks have the primary responsibility to collect court charges, fines, and restitution ordered by circuit and district judges in Alabama’s Unified Judicial System. Alabama law provides for the clerk to turn over accounts in default to the district attorney, but not earlier than 90 days after payment is due. The district attorney then pursues collection of the outstanding amounts plus a 30 percent collection fee that is divided between the district attorney (75%) and the clerk (25%).

**Table 3** analyzes data on collection of criminal court costs and fines that are available on the AOC web site. These data indicate that collection percentages for criminal court costs and fines are low. The top half of the table looks at collections for court costs, with circuit court cases on the left and district court cases on the right. Among criminal cases that were active in circuit courts during FY 2012, an average of \$184 in court costs had been ordered, with \$52 or 28% paid. Among criminal cases that were active in district courts that year, an average of \$123 in court costs had been ordered, with \$30 or 25% paid. The averages for cases that court clerks turned over to district attorneys were similar to those for cases remaining active.

Data on collection of fines are shown in the bottom half of Table 3. They show that the amounts of fines ordered in circuit courts are very large when compared to assessments for court costs, averaging \$1,155 for active cases and \$974 for cases turned over to the DA. While the dollar amounts paid are larger than payments on court costs (\$93 per active case for fines versus \$52 for court costs), the table also shows that payment percentages for fines are less than a third of the payment percentages for court costs, averaging under 10%.

The data in Table 3 suggest that there is great potential for increasing payments on court costs, given the small amounts involved in an average case and the relatively low collection rate. The picture for fines is less certain because of the large dollar values involved, which may be contributing to the very low collection rate.

TABLE 3. Collection Statistics for Criminal Court Costs and Fines, FY 2012.\*  
(Sources: AOC Web Site; PARCA Staff Calculations)

	CRIMINAL COURT COST COLLECTIONS			
	CASES IN CIRCUIT COURTS	CIRCUIT CASES TURNED OVER TO DA's	CASES IN DISTRICT COURTS	DISTRICT CASES TURNED OVER TO DA's
	Accounts Analyzed*	458,982	240,042	595,359
Amount Ordered to be Paid	\$ 84,545,431	\$ 45,563,301	\$ 73,132,890	\$ 46,716,186
Amount Paid Since Inception	23,883,434	13,148,665	17,958,996	10,420,168
Balance Due	\$ 60,661,997	\$ 32,414,636	\$ 55,173,894	\$ 36,296,018
Amount Ordered per Account	\$ 184	\$ 190	\$ 123	\$ 130
Amount Paid per Account	\$ 52	\$ 55	\$ 30	\$ 29
Ratio of Paid to Ordered	28%	29%	25%	22%

	FINE COLLECTIONS			
	CASES IN CIRCUIT COURTS	CIRCUIT CASES TURNED OVER TO DA's	CASES IN DISTRICT COURTS	DISTRICT CASES TURNED OVER TO DA's
	Accounts Analyzed*	235,356	127,537	573,082
Amount Ordered to be Paid	\$ 271,869,548	\$ 124,217,299	\$ 66,421,933	\$ 43,589,143
Amount Paid Since Inception	21,938,508	11,586,125	11,011,403	6,228,158
Balance Due	\$ 249,931,041	\$ 112,631,174	\$ 55,410,530	\$ 37,360,985
Amount Ordered per Account	\$ 1,155	\$ 974	\$ 116	\$ 116
Amount Paid per Account	\$ 93	\$ 91	\$ 19	\$ 17
Ratio of Paid to Ordered	8%	9%	17%	14%

\* Based on an AOC analysis of payments on selected accounts, as of FY 2012.

**Table 4** compares collection data for criminal court costs in selected counties. These data confirm the potential for increasing collection percentages statewide, showing that some counties already collect high percentages of criminal court costs, while other counties collect much lower percentages. Bringing the average collection percentage up to the level of high-collecting counties has the potential to increase revenues substantially.

The top half of Table 4 shows four counties with comparatively high collection percentages for circuit court costs ordered. Covington, Colbert, and Lauderdale had collection percentages near half of the amount ordered and 17 to 19 points higher than the 28% statewide rate. Baldwin County, at 36%, had the highest collection rate for large counties. In all, 22 counties had collection rates of 35% or more, based on the available data. On the other hand, the four largest counties in the state, shown in the bottom half of the table, collected around 25% of assessed court costs, suggesting that collection percentages could be improved in the state's urban areas where there is a large volume of cases.

TABLE 4. Criminal Court Cost Collection Statistics for Selected Counties, FY 2012.  
(Sources: AOC Web Site; PARCA Staff Calculations)

	CIRCUIT COURT CRIMINAL COST COLLECTIONS			
	Covington County	Colbert County	Lauderdale County	Baldwin County
Accounts Analyzed	3,074	2,522	3,305	15,565
Amount Ordered per Account	\$ 183	\$ 188	\$ 164	\$ 140
Amount Paid per Account	\$ 85	\$ 87	\$ 74	\$ 51
Ratio of Paid to Ordered	47%	46%	45%	36%

	Montgomery	Madison	Mobile	Jefferson
	County	County	County	County
Accounts Analyzed	27,951	39,357	49,355	31,989
Amount Ordered per Account	\$ 167	\$ 309	\$ 149	\$ 181
Amount Paid per Account	\$ 47	\$ 80	\$ 36	\$ 41
Ratio of Paid to Ordered	28%	26%	24%	23%

The data in Tables 3 and 4 indicate that an initiative focused on implementing best practices in court-cost collections could very well lead to increased revenues from this source. The National Center for State Courts (NCSC) has taken the initiative in this field and in 2009 published the second edition of its report on best practices, titled ***Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Issues and Solutions***. The discussion below summarizes the ten points of best practice according to the NCSC, which we recommend be adopted by the State of Alabama as a strategy for improving court-cost collections. After a review of this report by the Administrative Office of Courts, the AOC Director advised that these practices would probably not be cost effective in circuit criminal court.

**Point 1: Create Payment Expectations.**

According to the NCSC, courts with the best collection programs convey an expectation from the beginning that court charges will be paid in full and as quickly as possible. The expectation is expressed by the sentencing judge as well as in notices from the court, and it is backed by immediate action when payments are overdue.

**Point 2: Provide Leadership and Commitment from the Top.**

According to the NCSC, judicial commitment may be the single most critical factor in successful collection efforts and a collection program cannot be successful without strong, consistent support from the bench. In successful programs, all of the participants – judges, clerks, prosecutors, law enforcement, probation officers, and others – are cooperatively involved in the enforcement of collections.

**Point 3: Set Collection and Information Goals.**

According to the NCSC, the judicial system should set measurable and attainable goals to improve the collection of court charges. No court can improve collections without good collection procedures, a plan for reducing the backlog of unpaid charges, and staff time devoted to managing collection efforts.

The most common goals are time standards with targets for the dollar amounts to be paid (e.g., amounts to be paid in 30, 60, and 90 days). These can be accompanied by standards for issuing notices, compelling appearances, and taking enforcement actions. The most successful programs also have goals for the collection staff such as the percentage of amounts ordered that are collected and the percentage of cases completing payments on time.

**Point 4: Communicate Effectively with Those Ordered to Pay.**

The NCSC points out that communicating from the very beginning of the collection process is far more effective than later attempts to make contact. Many defendants do not have stable addresses and can “disappear” quickly. Written notices at every appearance are a good practice. Communicating the expected amount and time limit for payment, as well as enforcement procedures, is an effective way to increase the potential for collection. The NCSC also recommends educating the legal community about payment expectations and policies.

**Point 5: Establish Follow-Up Collection Procedures.**

When payment is not received up front, courts must develop effective follow-up procedures including the creation and enforcement of a payment plan. The NCSC suggests that setting a payment plan from the bench wastes judicial time and leads to claims of inability to pay that may not be justified. The better practice is to send defendants to the clerk’s office to complete an application that can be used to develop an affordable payment plan with timeliness expectations.

Judicial officials also must decide what procedures to use in enforcing such plans and their time limits – phone calls, past-due notices, bench warrants, etc. According to the NCSC, almost all courts allow installment payments. To reduce the burden on collection staffs, successful programs obtain basic information at the start of the process that will allow tracking of those obligated to pay. Experience shows that payment is most likely within the first 60 days, which means that prompt follow-up is essential.

**Point 6: Consider Forming a Specialized Collection Unit.**

According to the NCSC, having staff dedicated to collections ensures that adequate time will be devoted to this task and that the personnel involved have the inclination and experience to handle a stressful task. Collections staff can be formed by creating positions for this task within the clerk’s office, or by creating a separate unit organized to focus exclusively on managing collections.



**Point 7: Provide Education and Training for Staff.**

No collections effort can succeed without effectively training and educating the staff to implement its procedures. Training resources to assist in this task are available from the NCSC and the National Association for Court Management.

**Point 8: Establish Accountability in Controlling the Collection Inventory.**

Courts are accountable for the efficiency of their operations, and the judicial system should develop a formal process for separating active and inactive cases for reporting purposes. According to the NCSC, good programs have an established policy for writing off uncollectable accounts to ensure that the amounts considered as outstanding include only funds that realistically may be collected, and that accounts are not prematurely written off. Reporting on the efficiency of collecting accounts that can be expected to pay, without ignoring the significance of uncollectable accounts, is the best policy to follow. Not only does this avoid making court collections a political issue; the comparison of collection rates involved is a spur to better performance by courts across the state. A review and report like that of the California Courts in 2005 could be a model for such a review. Widespread publication of the amounts collected and the distributed could also be provided on an annual basis.

**Point 9: Consider the Cost of Collections.**

The NCSC recommends that courts consider not only how much is being collected, but also how much it costs to generate that revenue. The collections program should consider the cost per dollar of revenue generated by various methods (such as staff work versus contracting with collection agencies). The best programs use a mixture of strategies. To keep costs down, they start with relatively inexpensive, computer-generated notices or telephone calls. If these do not succeed, more coercive and expensive efforts are used, including warrants, credit reporting, license suspensions, and wage garnishments.

Review of the current Alabama UJS efforts regarding local court “pay dockets”, recoupment of indigent defense costs and the newly initiated Office of Prosecutorial Services cost collection program for FY 2015 should be included in this review.

**Point 10: Pursue Intergovernmental Cooperation.**

The NCSC reports that collection operations are less efficient when the responsibility is not clearly assigned to a single entity, and where all agencies involved in the justice system are not cooperating effectively. In successful programs, court representatives meet regularly with prosecutors, law enforcement, corrections, motor vehicle and driver license administrators, and with the public defender and bar association as well. While the number of new local court cost legislation has decreased in the last few years, continued increase in these costs and the burden to collect the same should be discussed prior to implementation.