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ABA seeks information on court budgets

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The American Bar Association wants to get a view from the trenches of the impact that the tough economic climate is having on the judiciary's ability to deliver justice.

The ABA Task Force on Preservation of the Justice System is urging "users of the courts" to tell it about their experiences during a time when courts across the United States — like many of the people they serve — are struggling to make ends meet.

The task force has posted an appeal for input on its website at abanet.org/preservejustice.

"If you have any reports, anecdotal evidence, surveys or other relevant information pertaining to the under-funding of the justice system, we kindly request that you share them with our task force," a message on the website reads. "With a unified effort, we can make a significant and positive impact on the way our justice system operates."

The task force also drafted a survey that it posted on its website and e-mailed to lawyers.

The survey asks respondents if they agree or disagree that the judiciary is adequately funded or that "significant barriers" stand in the way of access to the courts.

The survey also includes such questions as whether under-funding of the courts has had an impact on lawyers' clients and whether judgeships have gone unfilled, court services have been reduced or proceedings in criminal cases have been delayed because of budget cuts.

Another question is whether such factors as affordability, language or the length of time it takes for a case to be completed act as barriers to the public's access to the justice system.

Still other questions concern whether the number of litigants representing themselves in civil cases has increased and whether a litigant who has a lawyer has an advantage when facing off against a pro se opponent.

In another effort to gather information, the task force will have a public hearing in Atlanta on what it calls the "court-funding crisis" on Feb. 9 during the ABA's midyear meeting.

Another hearing will be in New Hampshire in the spring.

The task force is headed by attorneys Theodore B. Olson of Gibson, Dunn & Crucher LLP of Washington, D.C., and David Boies of Boies, Schiller & Flexner LLP of New York.

The task force was established last summer by ABA President Stephen N. Zack of Miami to explore solutions to the threat posed by a lack of resources for the courts.

At the time, Zack said he was prompted to form the task force by budget cuts that were leading court officials to slash programs, trim staff and reduce the number of hours that courthouses were open to the public.

"The under-funding of the justice system is actually closing down the rule of law in our country as we are establishing it in the rest of the world," Zack said last summer.

The ABA is not alone in worrying that budget cutbacks are hampering state, federal and administrative law judges in performing their duties.

In May 2009, retired U.S. Supreme Court Justice Sandra Day O'Connor said that budget crises in the states — and cutbacks in staff and resources for the courts in response to such crises — were threatening the ability of judges to handle the cases that were flooding their dockets.

On the federal side, it became something of a tradition over the years for the chief justice of the United States to make an appeal to Congress in his annual report for a pay boost for members of the bench or at least a cost-of-living adjustment.

In fact, many were surprised when Chief Justice John G. Roberts Jr. bypassed the topic of judicial pay entirely in his yearly report in December 2009.

But Roberts returned to the topic of money in his 2010 report, saying budget cutbacks made in the face of the economic downturn were among the threats to the ability of judges to serve the public

"We will strive to reduce costs where possible, but we ask in return that our coordinate branches of government continue to provide the financial resources that the courts must have to carry out their vital mission," Roberts wrote in the 2010 report.

On Wednesday, Chief U.S. District Judge James F. Holderman said the federal trial court in the Northern District of Illinois — like its counterparts across the country — was working within budgetary constraints.

And Holderman said possible reductions in the budget in the coming years might lead to cuts in some programs.

"We do our best to maintain the delivery of justice as we always have," Holderman said. "But with lesser funds, it may be necessary to curtail or limit some of the programs that we have that are not directly to particular cases."

Gino J. Agnello, clerk of the Chicago-based 7th U.S. Circuit Court of Appeals, said it was difficult to predict how the courts would fare in the near future.

The federal courts are currently operating under last year's budget in light of the fact that Congress has not yet passed a budget for the fiscal year that began Oct. 1, Agnello said.

But Agnello said he was "pretty confident" that cuts would be made in the 2012 and 2013 budgets.

"I think that we're going to feel it just like the rest of the economy," Agnello said. "We're not immune."

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