

E-SJI News

August 2009



Vol. 19, No. 11

ISSUES INVOLVING IMMIGRANT FAMILIES AND CHILDREN ARE CHALLENGING THE STATE COURTS

As part of its on-going work for SJI, the Center for Public Policy Studies (CPPS) is finding that addressing the needs of immigrant families and children poses significant challenges; especially when state courts attempt to fulfill their traditional roles of protecting children and working with distressed juveniles and their families. In part, these challenges are fueled by the sizeable numbers of immigrant families with complicated mixes of immigration statuses now living in the United States. Recent demographic assessments from the Pew Hispanic Center indicate that:

- 16.6 million people in the U.S. live in unauthorized families where the head of the family or the spouse of the head of the family is undocumented.
- 8.8 million people live in unauthorized families with U.S. citizen children.
- Nearly half – 47 percent -- of unauthorized immigrant households consist of a couple with children.
- In 2008, most children of unauthorized immigrants – 73 percent -- were U.S. citizens by birth. Specifically, 5.5 million children lived in unauthorized families. Of these children, about 1.5 million are undocumented, but an additional 4 million are U.S. citizens by birth.
- The younger children of undocumented immigrants are far more likely to be U.S. citizens than are older children – among children under age 6 whose parents are undocumented, 91 percent were born in the U.S.; while among those ages 14 – 17, 50 percent were born in the U.S.
- 7 percent of all unauthorized families include both U.S. citizen and non-U.S. citizen children.
- Approximately 10 percent of all children now being born in the U.S. are the children of illegal immigrants.
- Children of undocumented immigrants are 6.8 percent of students enrolled in kindergarten through grade 12.

The state courts are challenged with having to serve immigrant families and children. This has resulted in a disconnect between state court approaches, which emphasize child welfare by preserving families, helping juveniles, protecting children, and serving the best interest of children; and federal immigration approaches that emphasize removing undocumented immigrants and legal permanent resident immigrants who violate federal and/or state criminal laws. As part of the Strategic Initiatives Grants (SIG) program, CPPS is continuing to work in trial court learning sites across the nation to address the policy, process, and operational implications the state and federal approaches have on child custody and support, divorce, domestic violence, dependency, adoption, and case processing.

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SURVEY ILLUSTRATES PUBLIC EXPECTATIONS ON SOLVING JUSTICE ISSUES



The financial crisis and the recession have put great pressure on state governments in the United States. Declining tax revenue has forced states to cut services, raise taxes, and find other sources of money to make up the difference. At the same time, the problems that need the attention of state governments have not gone away. In fact, some have become even more urgent given the economic downturn. Can the three branches of state government find new ways to work together to meet the challenges of these difficult times? The new National Center for State Courts (NCSC) Inter-Branch Relations Survey on state government, conducted by Princeton Survey Research Associates International, examined public opinion toward state government to better understand Americans' priorities and attitudes toward the three branches generally, and the judicial branch specifically, and what factors most shape those views.

Interviewing for this national poll of 1,200 U.S. adults was conducted in February and March of 2009. The results of the new survey show a widespread public desire for cooperation among the branches at the state level. The following are among the major findings:

- Substantial public support is found for more cooperation among the branches in matters related to the justice system. Nine in 10 Americans think it is important for the heads of the three branches to meet regularly to discuss such issues. A majority of Americans also see value in on-the-job observation of officials from other branches as a way to better understand and appreciate the role of each branch.
- The public views the judiciary differently than the other branches. People are more likely to express confidence in the state courts than the executive and legislative branches. Opinions of the courts are less tied to partisan identification or other political influences. In addition, those best informed about their state government have the most positive views of the courts, regardless of party preference.
- There is widespread public support for the principle of separation of power to give state supreme courts the final say in deciding controversial issues. Recognizing the value of an independent judiciary, not political party affiliation, is the bigger factor impacting people's attitudes about the way the courts make decisions.
- The public wants all three branches to play a major role in helping solve key problems facing the states, like prison overcrowding and caring for neglected and abused children. However, people tend not to think the judiciary should take the lead role in efforts to solve these problems. People are instead more likely to choose the legislative branch to play such an overtly political role. **(continued on page 3)**

- The American public is opposed to budget cuts that would affect the core functions of the judiciary. Majorities reject suspending jury trials and reducing the number of judges through attrition as cost-cutting measures. In addition, it supports the proposals of increasing court fees and reducing court hours only if there are no other options.

The survey was commissioned to inform a National Summit sponsored by the American Bar Association Presidential Commission on Fair and Impartial State Courts in cooperation with NCSC. The Summit on “Justice is the Business of Government: The Critical Role of Fair and Impartial State Courts,” took place on May 7-9, 2009. The complete [report](#) is available on NCSC’s website.

GRANT GUIDELINE CHANGES FOR FY 2010

SJI will be implementing several changes to the grant programs beginning October 1, 2009. These changes are being made in response to the recent budget crisis in the state courts, in addition to other factors. These changes will be reflected in the FY 2010 Grant Guideline.

Beginning in FY 2010, a temporary cash match waiver process will be in effect for state courts submitting Project Grants applications. The application of this waiver authority will help the state courts, particularly in this climate of severe budget reductions. The process will require the state court to formally request a cash match waiver, and that it be certified by the chief justice of that state. The state court will have to explain in detail how it is facing budgetary cutbacks that will result in significant reductions in other services, and why it will be unable to undertake the project without a cash match waiver. This must be described in detail in the application and verified by the chief justice of that state. There will be a new cash match waiver form for administrative purposes, which must be signed by the chief justice.

Because full cash match waivers are unlikely, potential applicants are encouraged to include as much cash match possible in their Project Grant applications. Again, this is a temporary program only available to the state courts, and it will be re-evaluated at the end of FY 2010.

SJI has also decided to increase the cap on Technical Assistance (TA) and Curriculum Adaptation and Training (CAT) Grant applications. The maximum amount that can be requested for TA Grants is increasing from \$30,000 to \$50,000. The maximum amount for CAT Grants is increasing from \$20,000 to \$30,000. All match requirements remain the same as in previous years.

In addition to providing a cash match waiver process for Project Grants, and increasing TA and CAT Grant request levels, SJI has also made some changes to the grant program that provides clarification on supplantation of state funds. Currently, Section IV. A.4(a) of the Grant Guideline (describing the Budget Narrative) states: “If grant funds are requested to pay the salary and related costs for a current employee of a court or other unit of government, the applicant should explain why this would not constitute a supplantation of State or local funds in violation of 42 U.S.C.(d)(1).” However, this is followed by, “An acceptable explanation may be that the position to be filled is a new one established in conjunction with the project or that the grant funds would support only the portion of the employee’s time that would be dedicated to new or additional duties related to the project.” This has been very confusing to many applicants, as SJI is continuing to receive grant requests that include personnel costs to supplement state employees. **(continued on page 4)**

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The support of a new employee hired for a specific project also raises the issue of how the state will absorb the personnel costs after the grant is completed. It is also noted that recent applications do not include requests for new employees, but do ask to supplement court personnel budgets.

To eliminate this confusion, beginning in FY 2010, no personnel costs will be allowed for grant or cash match funds for any state court or other government entity. Personnel costs contained in grant applications from state court or government agencies will only be accepted as in-kind match. This will assure that SJI funds will not be used to supplant state funds, and remove the ambiguity surrounding personnel costs as cash match.

If there are questions about the revised Grant Guideline, potential grant applicants are encouraged to contact SJI prior to submitting applications.

SJI RECEIVES GRANT APPLICATIONS FOR THE 4th QUARTER

SJI received 14 grant applications requesting a total of **\$915,386** for the 4th quarter of FY 2009. The Board will meet on September 17, 2009, to make decisions on grant awards for the 4th quarter. The results of this Board meeting will be available the following week. SJI received over \$4.0 million in grant applications in FY 2009.

SPECIAL ANNOUNCEMENTS

- Next grant and scholarship application deadline: **November 1, 2009** (1st Quarter, FY 2010).
- The new SJI Grant Guideline for FY 2010 will be available on the SJI website in October 2009.