

JUDICIAL COUNCIL MEETING
Minutes of February 28, 2003

The Judicial Council of California business meeting began at 8:40 a.m. on Friday, February 28, 2003, at the Administrative Office of the Courts (AOC) in San Francisco, California, on the call of Chief Justice Ronald M. George, chair.

Judicial Council members present: Chief Justice Ronald M. George; Associate Justices Marvin R. Baxter, Norman L. Epstein, Richard D. Huffman, and Laurence Donald Kay; Judges Gail A. Andler, Aviva K. Bobb, Eric L. Du Temple, William C. Harrison, Brad R. Hill, Jack Komar, William A. MacLaughlin, Heather D. Morse, Ronald M. Sabraw, and Barbara Ann Zúñiga; Mr. Rex Heeseman, Mr. David J. Pasternak, Ms. Ann Miller Ravel, Mr. William C. Vickrey, and Mr. Thomas J. Warwick, Jr.; **advisory members:** Judges Frederick Paul Horn and Gregory C. O'Brien, Jr.; Ms. Tressa S. Kentner, Ms. Susan Null, and Mr. Alan Slater.

Absent: Senator Martha M. Escutia, Assembly Member Ellen M. Corbett, and Commissioner Patricia H. Wong.

Others present included: Justice Judith McConnell, Ms. Pam Aguilar, Ms. Marcia Caballin, Ms. Michelle Castro, Ms. Sylvia A. Edwards, Ms. Beth Jay, Ms. Beverly Kees, Mr. Randy Lyman, Ms. Sarah Mangum, Ms. Susan Manning, Ms. Nona Martinez, Ms. Nancy McCarthy, Ms. Debbie Mercado, Mr. Daniel Navarro, Ms. Paz Perry, Ms. Carole Prescott, Mr. Damian Tryon, Ms. Ann Weatherby, Mr. Richard C. Weatherby, Ms. Sandy Yoffie; **staff:** Ms. Olivia Ballejos, Mr. Ricardo Beacon, Ms. Suzanne Bean, Mr. Michael Bergeisen, Ms. Beverly Burton, Mr. James Carroll, Ms. Tina Carroll, Ms. Jeanne Caughell, Ms. Deborah Chase, Ms. Roma Cheadle, Ms. Debbie Chong-Manguiat, Ms. Azucena Coronel, Mr. Mark Dusman, Mr. Bob Fleshman, Ms. Denise Friday, Mr. Scott Gardner, Mr. David Glass, Mr. Ruben Gomez, Ms. Sheila Gonzalez, Ms. Charlene Hammitt, Ms. Christine Hansen, Ms. Lynn Holton, Ms. Bonnie Hough, Ms. Susan Hough, Ms. Kate Howard, Mr. Cyrus Ip, Ms. Margaret Jacobson, Ms. Melissa Johnson, Ms. Melanie Jones, Mr. John Judnick, Mr. Kenneth Kann, Ms. Chris Kingery, Mr. Shawn Landry, Mr. Ray LeBov, Ms. Sally Lee, Ms. Lynne Liptz, Mr. Frederick Miller, Ms. Suzanne Murphy, Ms. Vicki Muzny, Mr. Stephen Nash, Ms. Diane Nunn, Ms. Susan Oliker, Ms. Eraina Ortega, Mr. Ronald G. Overholt, Ms. Cynthia Passon, Ms. Christine Patton, Ms. Nancy Polis, Ms. Catharine Price, Ms. Romunda Price, Mr. Michael Roddy, Ms. Lucy Smallsreed, Mr. David Smith, Ms. Nancy Spero, Ms. Theresa Sudo, Ms. Pat Sweeten, Ms. Marcia Taylor, Mr. Jack Urquhart, Ms. Karen Viscia, Mr. Joshua Weinstein, Mr. Tony Wernert, and Ms. Pat Yerian; **media representatives:** Mr. Jeff Chorney, *The Recorder*, and Ms. Donna Domino, *Daily Journal*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated February 28, 2003, that was sent to members in advance of the meeting.)

Special Comment

The Chief Justice Ronald M. George welcomed Ms. Pam Aguilar, visiting from the American Federation of State, County, and Municipal Employees (AFSCME).

Public Comment Related to Trial Court Budget Issues

Mr. Damian Tryon, Union Representative, spoke on behalf of California District Council 36 of AFSCME. He informed the Judicial Council of the union council's willingness to work with them in finding a viable alternative to staffing cuts and pay cuts as responses to the budget crisis—specifically by exploring the option of revenue increases that can lessen the impact. Mr. Tryon referred to the February 25 letter sent by AFSCME to Superior Court of Los Angeles County Presiding Judge Robert A. Dukes and to members of the Judicial Council. He informed the council of a program that is still in existence since unification at the Santa Anita Courthouse—one of the smallest courthouses in Los Angeles County—that generates over \$1 million in revenue. Mr. Tryon emphasized that by no means is he suggesting that the court's job is to generate money, but given that courts are empowered with the ability to collect fees and fines, he feels that it's incumbent upon all of us in this budget crisis to find a way to become more stable. He explained how the program works in Santa Anita: when someone claims he or she can't afford a fee or a fine, the administrator and the judicial officers at that location refer the individual to a central financial evaluator, who reviews his or her financial records and bills, determines what he or she can afford to pay, and thereafter puts the person on a payment plan rather than allowing him or her to just forfeit or ignore the fine. In worst-case scenarios, the individual is placed on community service projects—which, in the long run, is a benefit to the county. Mr. Tryon concluded that failure to pursue delinquent fees puts an unfair burden on the state to fund trial courts when there is money that the courts should be generating.

Ms. Debbie Mercado, President of Local 276, provided an overview of the duties and responsibilities of family law mediators and child custody evaluators in the Superior Court of Los Angeles County. She described their cases are often complex, the work can be stressful, and it can require some time to provide true quality service. In the recent layoffs at the Superior Court of Los Angeles County, her department lost four employees and will lose two more next month. Given the current hiring freeze, there will be no replacements. She indicated that currently staff are being asked to assume more work, mediation appointments are being double-booked, and mediators are expected to provide the same services to more families in a reduced period of time. This follows on the heels of a quality-of-service plan, implemented just last year that required all court employees to complete training. In the past, backlogs have resulted in custody evaluations being scheduled nine months out, and this places families and their children at risk since it delays the assessment and intervention by the courts and the provision of safe parenting plans. Ms. Mercado stated that not only is this detrimental to the employees, but it is a disservice to the public.

Ms. Carole Prescott, President of Local 575, representing all the court clerks of Los Angeles County, echoed her concern regarding the budget crisis. She reported that because of layoffs of mail clerks and file clerks, mail (such as minute orders and notices) are not getting out promptly, and the court clerks have not been able to do their jobs effectively in the courtroom. In addition, she shared with the council that since unification, the Los Angeles court still has many duplicative management positions. She suggested that if any cuts are to be made, it should be at the top rather than to those who are serving the public.

Chief Justice George pointed out that in this difficult time of budget cutbacks it is not the desire of the judiciary to resort to employee layoffs; that has always been considered a last resort among all the options.

Approval of Minutes of December 13, 2002

The council approved the minutes of its December 13, 2002, meeting.

Judicial Council Committee Presentations

Executive and Planning Committee

Associate Justice Richard D. Huffman, chair, reported that the Executive and Planning Committee (E&P) had met twice since the last council meeting. They met on February 5, by phone, to review the materials for today's agenda, the council's site visits scheduled for the remainder of the year, and the nominations for vacancies in the Court Executives Advisory Committee and Judicial Service Advisory Committee. He noted that E&P's nominations had been forwarded to the Chief Justice. On February 14, E&P reviewed nominations for an out-of-cycle vacancy in the Family and Juvenile Law Advisory Committee and forwarded its nominations to the Chief Justice. They also reviewed the memberships of the advisory committees and will recommend to the Chief Justice that some of the positions that will become vacant not be filled. E&P has consulted with the advisory committee chairs and will begin the process of reducing the sizes of some of the committees (where appropriate) by attrition rather than interrupting someone's term. Justice Huffman stated that this process seems acceptable to the advisory committee chairs. He reported that he and Justice Marvin R. Baxter, Judge Gail A. Andler, and Michael Bergeisen had had a session with the advisory committee chairs in the preceding week at the California Judicial Administration Conference, to discuss governance of the advisory committees and their membership sizes. They will later report back to the council with some additional changes in the manner in which the council interacts with those committees. Last, E&P has reviewed the material that makes up part of the budget presentation today and had an opportunity to discuss that presentation with the staff before it was put together.

Policy Coordination and Liaison Committee

Associate Justice Marvin R. Baxter, chair, reported that the Policy Coordination and Liaison Committee had had two meetings, both by conference call, on January 9 and February 20. They were joined by the chairs of the other internal committees and

approved proposals for the council-sponsored legislation program for 2003. The legislative proposals encompassed subjects including interpreters, jury service, court facilities, and conversion of subordinate judicial officers. Justice Baxter reported that the legislative deadline to introduce the bills was last Friday, February 21, and staff is now reviewing all bills that may be of interest. At the next meeting, he will report on key legislation, including the council-sponsored bills. He added that liaison meetings have been held with court-related organizations, put together by the Office of Governmental Affairs. The meetings that have taken place were with the Attorney General, the California State Association of Counties, the California Attorneys for Criminal Justice, the California Public Defenders Association, the Consumer Attorneys of California, the California Defense Counsel (which is on the civil side), and the California District Attorneys Association. Next week's meeting will be with the State Bar and the California State Sheriffs' Association. A special meeting was arranged with the sheriffs to discuss divergence of opinions about the Governor's proposals on the budget. Working groups have been created to address those differences and hopefully we can narrow the differences or arrive at an agreement. Justice Baxter stated that those meetings have been very helpful. He informed the council that the ninth annual Judicial Legislative Executive Forum is scheduled for March 25, 2003, following the Chief Justice's State of the Judiciary address. Invitations are forthcoming, and he encourages everyone's attendance.

Rules and Projects Committee

Judge Gail A. Andler, chair, reported that the Rules and Projects Committee (RUPRO) had met three times since the council's last meeting. RUPRO met together with the Executive and Planning Committee at a special meeting on December 27, 2002, to review a proposed circulating order on a new rule concerning the practice of law by subordinate judicial officers. RUPRO recommended approval of the proposal, and the council adopted it by circulating order effective January 1, 2003. RUPRO met again on January 23 and February 20, 2003, to review two proposals for new and amended rules that are coming before the Judicial Council at this meeting. Judge Andler indicated that RUPRO recommends approval of Item 1 on the Consent Agenda but makes no recommendation to the members of the council on Item 3 because of the lateness of the submission of the changes. Judge Andler further reported that following RUPRO's meeting on December 5, 2002, new rule and form proposals went out for public comment as part of the winter 2003 cycle. The public comment period closed on February 14, 2003, and RUPRO anticipates that those proposals will come before the council at its April 15 business meeting.

Judicial Council Court Visit Reports

Judge Aviva K. Bobb, team leader, reported on visits to Inyo and Mono Counties.

Similarities Between the Superior Courts of Inyo and Mono Counties:

The Inyo and Mono courts has two judges, and in addition share a common child support commissioner. The courts do very good work under difficult circumstances. Their

counties are large geographically, and the courts are no longer in the population centers. Neither county has perimeter security at its “makeshift” courthouses.

Both courts expressed concern about the impact of being part of a statewide system. Each clearly sees benefits but equally believes it has experienced additional workload as a result of being part of a statewide institution, and feels a strain on its resources because of the additional surveys, data collection, and reports it is required to submit. Both expressed a need for some flexibility and the possibility that exceptions might be made. They indicated a desire to be held accountable to performance standards, and expressed hope that if they had good management practices, those could be supported rather than necessarily being swept into a statewide system.

Each court has a historic courthouse in the county seat. Mono County’s Bridgeport Courthouse was built in 1880, and Inyo County’s Independence Courthouse was built not long after that. Both historic courthouses are structurally deficient.

Both courts talked about the value of the regional offices and feel they have received major benefits from those offices.

Inyo County

Inyo County is geographically the second largest county in the state. Its two judges adjudicate cases in an area of more than 100 miles by more than 200 miles. The judges’ caseloads are largely traffic cases. Bishop, where the remainder of the work is done, is an hour from Independence and has makeshift courthouses. The court in Bishop shares cramped space with other county offices. There’s little available land in the county because the federal and state governments own so much of it. The Inyo personnel shared that it is difficult for them to get to statewide meetings because they have to be away three days for every one-day meeting that they attend. The Inyo court is concerned about structural problems in family law. Their child support commissioner cannot hear custody cases and therefore cannot determine timeshare in determining child support. And because of the geographical distance, she is put in the position of calling a case; continuing it to a bench officer, who can determine timeshare; and then hearing the case on the third day, when she can determine the child support amount. This has to do with the fact that there are only a few bench officers in a large geographic area, and because of the way the Title IVD funding works with respect to child support. The Inyo personnel also expressed a need for an additional bench officer due to their geography. They expressed that the Assigned Judges Program doesn’t work when their judges are on vacation or attend statewide meetings, because they cannot find assigned judges willing to take the extra time to travel to and from the courthouses, particularly in winter. It is noteworthy that in Inyo County, judges are very integrated into the community. One of the judges teaches at a local high school every morning at 7 a.m. before going to court, and in the afternoon he referees sports activities. The Inyo court has done an admirable job of community outreach.

Mono County

The Mono court location handles 15 percent of the caseload for the county. Mammoth Lakes, where the remainder of the work is done, has makeshift courthouses and is an hour from Bridgeport. The Mammoth Lakes court is on the third floor of a strip mall, which has very poor signage because of a city ordinance about signage. The Mammoth Lakes court is concerned because its lease will expire shortly. It was once a part of a consortium of local public agencies that had received some land from the government, but due to the current status of courthouse construction, it lacks the ability, the authority, and the resources to participate.

Of great value is their inexpensive technology that Mono has employed. They now have videoconferencing between their jails and the bench officers at their offices in Bridgeport and Mammoth Lakes.

Los Angeles County

Hon. Barbara Ann Zúñiga, team leader, reported on the site visit to Los Angeles Superior Court. The team was welcomed by the court staff and Presiding Judge Dukes, who gave an overview of the court and the measures the court had undertaken as a result of the budget deficit, such as closing down courtrooms and holding facilities, limiting the use of assigned judges, and laying off approximately 400 staff members. Nevertheless, the staff is committed to providing superior justice to the citizens of Los Angeles. Recent examples include their customer training program for bench officers to interact better with the public, the establishment of strict guidelines for the civil trial so that jurors do not have to wait needlessly, and discouragement of last-minute settlements on the courthouse steps.

The team visited the following six court facilities:

- The Stanley Mosk Courthouse, which is the central facility for civil limited and unlimited matters.
- The Edmund D. Edelman Children's Court is a state-of-the-art facility concerned with child abuse cases. The facility is designed for the comfort and protection of children. Courtrooms, bench, and furniture have been scaled down in size to accommodate them. The facility has playrooms, toys, the Disney channel, and an outdoor play area for individuals in protective custody. Also, an innovative video tape describing the court process is shown to children who come to the court.
- At the Clara Shortridge Foltz Justice Center, the main criminal facility in Los Angeles, the visitors toured the high-security ninth floor, where courtrooms are monitored by video received by sheriff's office personnel in a central location. Those personnel have the ability to start taping if an incident occurs, and the ability to communicate with staff and other people in the courtroom. The visitors also toured the area where inmates are brought in. In-custody inmates are tracked by the use of armed bands and bar codes as they travel to each floor within a courthouse.

- At the Santa Monica Courthouse, the visitors toured the newly remodeled jury assembly room, which has a rooftop patio overlooking the beautiful vistas and beach of Santa Monica. The assembly room has private cubicles where jurors can work and have Internet access. Los Angeles brings in 7,000 jurors every day and has encountered a great deal of hostility from jurors because judges have been more stringently selective in excusing jurors for supposed hardship. The Los Angeles court has implemented 10,000 sanction hearings on jurors who have failed to appear for jury service. The Santa Monica court also has inadequate facilities. Three of its courtrooms are in trailer units, which have poor circulation.
- The Mental Health Courthouse is one of its kind in the country, consisting of two buildings joined together. The district attorney and public defender are housed in the building. The facilities are inadequate and overcrowded, and temperatures fluctuate. The security is also inadequate; the court staff has to move in-custody inmates in the common public ways. A concern was raised that a fence is all that separates the inmates' break and rest area from the public sidewalk. Someone could very easily throw something over, or climb over the fence and leave something for an inmate. Another concern noted was that this courthouse is in a residential area where one area of the open-air secured areas is adjacent to the backyards of private citizens.
- East Lake Juvenile Court is where the most serious juvenile cases are heard. It houses one of the only juvenile mental health and drug courts in the state. The condition of the facility is deplorable; some described it as "criminal." One courtroom visited was described as being as small as a large hotel room, which means it is overcrowded. In-custody inmates who are testifying are "practically sitting in the lap" of one of the attorneys. It is an unsafe facility for the public, for staff, and for the courts because of the inadequacy of security. The drug court is overcrowded, it does not have a waiting room, and hallways are crowded. Participants in the drug courts had to sit outside in public areas and wait to be called in when their cases were ready to be heard. The team agreed that the facility sends a terrible message to some of our most vulnerable individuals in the community—the youth. Despite these deplorable conditions in the East Lake and in the mental health court, the council members were impressed with the enthusiasm and pride of the staffs and bench officers about their work. It was infectious as they shared their accomplishments with great pride without complaints. The team encouraged all new Judicial Council members to visit Los Angeles.

Judge Zúñiga shared that all of the problems that courts experience in various other counties are all replicated in Los Angeles within this one court system. They have difficulties with interpreters; staff and bench officers expressed concern about the impact the legislation is going to have on them. Currently 116 different languages are spoken in the courts, and they have difficulty now in getting interpreters—let alone when the legislation goes into effect. On a personal note, Judge Zúñiga quoted Judge Sabraw's sentiments that: *"Having gone to Los Angeles and seen the facilities, and having spoken to staff and bench officers, I have a new respect for the Los Angeles court system."*

Judge Andler added that their visit had a tremendous impact. She stated: *“When you look at the facility and its deplorable conditions, it seemed as though there’s no hope, no one cares, and that they’ve given up on those children, except for the bench officers and the attitudes of those who administer justice. It was truly inspirational to see the attitudes of the bench officers, who didn’t complain.”*

CONSENT AGENDA

The Chief Justice informed the council that no items from the Consent Agenda had been moved to the Discussion Agenda.

Item 1 Court Security Working Group Rule (amend Cal. Rules of Court, rule 6.170) (Action Required)

AOC staff recommends revising a rule that explicitly sets forth the composition of the Working Group on Court Security—which depends on the type of matter being considered. The revised rule also specifies the role of the California State Sheriffs’ Association in determining which sheriff member is removed when the working group membership changes and establishes initial terms for the labor representatives of the working group.

Council action:

The Judicial Council, effective immediately, amended rule 6.170 to:

1. Explicitly set forth the two compositions of the working group to reflect which composition considers which types of matters;
2. Clarify that the change in composition of the working group occurs only when the working group is considering making certain types of recommendations;
3. Specify that the California State Sheriffs’ Association (the original appointing authority for the sheriff members of the working group) determines which two sheriff members of the working group are part of the working group when its membership changes from three to two sheriff representatives; and
4. Rearrange the first two portions of the rule so that it clearly sets forth the purpose of the group and then the two compositions of the group.

The motion passed.

Special Presentation

The Norman S. Yoffie Career Achievement Award was presented as part of the James Madison Freedom of Information Awards by the Society of Professional Journalists (SPJ), Northern California Chapter.

The James Madison Freedom of Information Awards are named for the creative force

behind the First Amendment to the U.S. Constitution. The awards honor local journalists, organizations, public officials, and private citizens who have fought for public access to government meetings and records or have promoted the public's right to know, publish, broadcast, and speak freely about issues of public concern. The Norman S. Yoffie Career Achievement Award is named in memory of the former publisher and general manager of the *Marin Independent Journal*, who gave many years of distinguished service to the SPJ and the cause of freedom of information.

Ms. Beverly Kees, independent journalist, president of the Northern California Chapter of the SPJ, and Mr. Randy Lyman, independent journalist, co-chair of the Freedom of Information Committee, presented Chief Justice Ronald M. George with the 2003 Norman S. Yoffie Career Achievement Award for the Chief Justice's long history of promoting access to the courts—breaking tradition in 1996 by letting reporters interview the Supreme Court's staff attorneys; making personal visits to all 58 county courthouses; making public speeches; scheduling oral arguments at alternative venues so that schoolchildren can attend and learn about the court first-hand; and, in the early 1970s, while on the Los Angeles Municipal Court bench, directing that court forms be translated to better serve cities with large Spanish-speaking populations. In addition, Chief Justice George was honored for promoting openness in the California court system through new rules of court that enable electronic filing, electronic docketing, and other uses of digital technology, as well as a public Web site and Self-Help Center. A formal ceremony will be held on March 18, 2003, to mark the presentation of the award.

Chief Justice Ronald M. George accepted the award on behalf of the Judicial Council. He indicated that accomplishments with regard to rules of court and openness of court proceedings—specifically, sealing of documents, electronic filing, and court outreach—were actions taken by the council as a whole. The Chief added that there is much that the press and the judiciary share in common: both are independent of the political branches of government, and both share a deep and abiding conviction that proceedings should be open to the public.

Mr. William C. Vickrey and the Judicial Council recognized the presence of Mrs. Sandy Yoffie, the widow of Norman S. Yoffie.

DISCUSSION AGENDA

Item 2 Final Report of the Community Focused Court Planning Implementation Task Force; Charter Completion Date, December 31, 2002 (Action Required)

The Community-Focused Court Planning Implementation Committee respectfully offers the Judicial Council the following recommendations:

1. Provide for continued annual funding by adjusting courts' base budgets by amounts previously received for strategic planning, community outreach, and education. The

Administrative Office of the Courts should continue providing its current level of support for such activities (e.g., the *Annual Report of Trial Court Strategic Planning*, the Court/Community Clearinghouse, the Court and Community Collaborations Web site, and law-related education efforts), with direct costs to be paid from the Trial Court Improvement Fund.

2. Provide ongoing leadership and guidance for court planning, outreach, and education about the judicial system. The Administrative Office of the Courts should continue supporting institutionalization of these efforts, with the Administrative Director of the Courts appointing a steering committee to oversee them as appropriate.
3. If necessary, based on the severity of the state's fiscal constraints, permit the Administrative Director of the Courts to defer establishing the recommended steering committee to fiscal year 2004–2005 or later.

Council action:

The Judicial Council approved the recommendations of the Community-Focused Court Planning Implementation Committee for the council to:

1. Provide for continued annual funding by adjusting courts' base budgets;
2. Provide ongoing leadership and guidance for court planning, outreach, and education (including a steering committee as appropriate); and
3. Permit the Administrative Director of the Courts to defer establishing the steering committee.

The motion passed.

Item 3 Implementation of the Trial Court Interpreters Employment and Labor Relations Act (adopt Cal. Rules of Court, rules 6.661 and 6.662; amend rule 984.3) (Action Required)

AOC staff recommends that the Judicial Council:

1. Adopt rule 6.661, which allows for the establishment of Regional Court Interpreter Employment Relations Committees to negotiate terms and conditions of employment for the new court interpreter employees on behalf of the trial courts;
2. Adopt rule 6.662 so that said committees can establish rules to facilitate the efficient cross-assignment of interpreters within and across regions; and
3. Amend rule 984.3 so that trial courts can provide the Judicial Council with a semiannual report containing current and accurate data not only on noncertified interpreters but also on certified and registered interpreters.

Council action:

The Judicial Council, effective March 1, 2003:

1. Adopted rule of court 6.661 of the California Rules of Court;
2. Adopted rule of court 6.662; and
3. Amended rule 984.3.

The motion passed.

Special Comment

Chief Justice Ronald M. George welcomed interpreter representatives: Ms. Paz Perry and Mr. Daniel Navarro representing Bay Area Court Interpreters (BACI), California Federation of Interpreters, Inc. (CFI), and Communication Workers of America (CWA) and Mr. Richard Weatherby representing California Court Interpreters Association (CCIA).

Item 4 Discussion on Judicial Branch Budget Issues for Fiscal Years 2002–2003, 2003–2004, and 2004–2005 (Action Required)

AOC staff submits to the Judicial Council recommendations pertaining to the judicial branch budget for fiscal years 2002–2003, 2003–2004, and 2004–2005, to include the following specific proposals.

- I. Fiscal Year 2002–2003
 - A. Funding Increases (Information Only)
 - B. Levels and Impacts of Budget Reductions
 - C. Emergency Funding
 - D. Budget Reduction Plans (Information Only)
 - E. Trial Court Workers' Compensation Program

- II. Fiscal Year 2003–2004
 - A. Budget Change Proposals (Information Only)
 - B. Spring Finance Letters (Resubmitted Budget Change Proposals)
 - C. Levels and Impacts of Budget Reductions
 - D. Budget Reduction Plans (Information Only)
 - E. Structural Problems in Funds and Deficiency Issues
 - F. Legislative Proposals Contained in the Governor's Fiscal Year 2003–2004 Budget Policy Package
 - G. Judicial Branch Budget Advisory Committee—Recommended Cost Reduction Measures
 - H. Other Action Items

- III. Fiscal Year 2004–2005
 - A. Budget Priorities
 - B. Deficiency Issues

Council actions:

The Judicial Council approved all the recommendations pertaining to the judicial branch budget for fiscal years 2002–2003, 2003–2004, and 2004–2005, as follows:

I. Fiscal Year 2002–2003

A. Funding Increases

This item was presented as an information item only.

B. Levels and Impacts of Budget Reductions

B.1. *Judiciary*

Approve the following budget reduction plan to address the proposed \$8.5 million reduction to the judiciary’s fiscal year (FY) 2002–2003 budget:

1. Utilize available funding in the Court-Appointed Counsel Program and judicial salary savings—as well as the implementation of additional unallocated reductions in the operating budgets of the Supreme Court, California Judicial Center Library, Courts of Appeal, AOC, and Habeas Corpus Resource Center (HCRC)—to address the proposed \$8.5 million reduction in the judiciary’s budget; and
2. Delegate authority to the Administrative Director of the Courts to make any further adjustments to the budget reduction plan if the judicial branch experiences an acute cash flow situation or if the proposed reduction is not passed at the current amount.

Mr. Tom Warwick abstained. He is a member of the Board of Appellate Defenders in San Diego, which could be a potential conflict of interest.

B.2. *Trial Courts*

Approve the following plan to address the proposed \$36 million reduction in the trial courts’ FY 2002–2003 budget:

1. Trial Court Budget Reduction Plan

- Revert \$6.1 million from the Judicial Administration Efficiency and Modernization Fund (affecting pilot programs, technical assistance, training, etc.);
- Revert \$4.155 million from the Trial Court Improvement Fund (affecting technology projects, specialty programs, etc.);
- Implement an additional across-the-board unallocated reduction of \$21.565 million, or 1.24%, in the trial court’s operating budget (program 10);
- Reduce the judicial salary budget (program 25) by \$4 million; and
- Reduce the Assigned Judges Program (program 35) by \$180,000.

2. Delegated authority to the Administrative Director of the Courts to make any further adjustments to the budget reduction plan if the judicial branch experiences an acute cash flow situation or if the proposed reduction is not passed at the current amount.

C. Emergency Funding

Approve the following actions to further establish and utilize emergency funding to assist courts in carrying out the recommendations for unallocated funds:

1. Approve setting aside uncommitted funds on a one-time basis, in both FY 2002–2003 and FY 2003–2004, from one-half of the 1 percent reserve in the Trial Court Improvement Fund, to make additional funding available for courts that took all reasonable steps to prepare and manage the anticipated budget reductions yet still face undue hardships as a result of the unallocated reductions, and to address cash flow issues. Uncommitted funds from FY 2002–2003 would be carried over to FY 2003–2004 and remain available for these purposes; and
2. Direct staff to establish strict guidelines, including an approval and appeals process, for utilization of these funds.

D. Budget Reduction Plans

This item was presented as an information item only.

E. Trial Court Workers' Compensation Program

Approve an increase from the current \$2 million allocation from the Trial Court Improvement Fund to \$20 million (\$8 million in FY 2003–2004, \$5 million in FY 2004–2005, and \$5 million in FY 2005–2006) for the continued development and implementation of a statewide risk management program.

II. Fiscal Year 2003–2004

A. Budget Change Proposals

This item was presented as an information item only.

B. Spring Finance Letters

B.1. *Judiciary*

The Judicial Council, through its chair, seek the Governor's approval of the following judiciary finance letters:

JUDICIARY	
Administrative Office of the Courts:	
Accounting Processing Center (GF—reimbursements)	\$349,000
Funding for Reclassified Positions	375,000
SB 1732—Trial Court Facilities Act of 2002	12,727,000
<i>Subtotal of AOC Requests:</i>	<i>\$13,451,000</i>
Judicial:	
Facilities Rent Expenses	\$1,040,000
Security and Judicial Protection	381,000
Operating Costs – Postage	55,000

Operating Costs – Postage	55,000
Subtotal of Judicial (0250) Requests:	\$1,476,000
Funding Source:	
Total General Fund	\$1,851,000
Total General Fund – Reimbursements	\$349,000
Total State Court Facilities Construction Fund	\$12,727,000
TOTAL (All Funding Sources):	\$14,927,000
JUDICIARY – CAPITAL OUTLAY	
Courts of Appeal (technical adjustment—reappropriation from FY 2002–03 to FY 2003–04 due to delay in site acquisition)	
Fifth Appellate District (Fresno Courthouse)	\$17,559,000
Fourth Appellate District, Div. 3 (Santa Ana Courthouse)	14,350,000
Total (Lease Revenue Bond Funds)	\$31,909,000

B.2. *Trial Courts*

Through the Judicial Council chair, seek the Governor’s approval of the following trial court finance letters:

Name of Proposal TRIAL COURTS	Finance Letter Amount (In dollars)	
	FY 2002–2003	FY 2003–2004
Court Staff Retirement		\$ 5,518,000
Pay Parity – Unification		3,549,000
Pay Parity – Market-driven		10,776,000
<i>Trial Court Workers’ Compensation</i>		8,962,000
Security NSIs, Retirement, and Other Benefits		3,805,000
Increased County Charges for County-Provided Services		9,770,000
Operating Costs – Postage		908,000
Court Interpreter Workload Growth		5,615,000
Prison Hearing Costs and Extraordinary Costs for Homicide Trials (technical adjustment)		0
SB 2011 Conversion of Temporary Help to Permanent Employees (seek funding or in the alternative seek cleanup language to clarify intent of the legislation)	\$ 3,883,000	10,354,000
Trial Court Health Benefit Adjustments	448,000	551,000
Service of Process Fees per AB 2030	610,000	1,220,000
Total:	\$ 4,941,000	\$ 61,028,000

B.3. *Service of Process of a Protective Order*

Direct the courts to track and report to the AOC the cost of service of process of a protective order, restraining order, or injunction, where the order or injunction is based specified acts or threats, per Assembly Bill 2030.

C. Levels and Impacts of Budget Reductions

C.1. *Judiciary*

Approve the following budget reduction plan to address the proposed \$17.7 million reduction in the judiciary's FY 2003–2004 budget:

1. Allocate a \$13.644 million reduction in state operations funding to the operating budgets for the Supreme Court, California Judicial Center Library, Courts of Appeal, AOC, and HCRC;
2. Allocate \$4.056 million in reductions to local assistance funding;
3. Direct staff to work with the Governor and the Legislature to reduce the proposed cut of \$17.7 million to the greatest extent possible. An unallocated reduction greater than \$9 million would further affect local assistance funding and operating budgets of the judiciary; and
4. Delegate authority to the Administrative Director of the Courts to make any further adjustments to the budget reduction plan if the judicial branch experiences an acute cash flow situation or the proposed reduction is not passed at the current amount.

Mr. David Pasternak abstained. He is the president-elect of the Bet Tzedek Legal Services in Los Angeles, which could be a potential conflict of interest. Judge Gail Andler opposed.

C.2. *Trial Courts*

Approve the following actions and the corresponding budget reduction plan to address the proposed \$116 million reduction in the trial courts' FY 2003–2004 budget:

1. Seek support to fund mandatory costs and diminish the proposed reductions to the greatest extent possible—to the point where the impact on those least able to bear the brunt of the reductions will be minimized (a reduction totaling no more than \$100 million);
2. Trial Court Budget Reduction Plan
 - Revert \$5.1 million from the Judicial Administration Efficiency and Modernization Fund (affecting pilot programs, technical assistance, training, etc.);
 - Revert \$12 million from the Trial Court Improvement Fund (affecting technology projects, specialty programs, etc.);
 - Implement an across-the-board unallocated reduction of \$87 million, or 5 percent, in the trial court's operating budget (program 10);
 - Reduce the judicial salary budget (program 25) by \$10 million;
 - Reduce the Assigned Judges Program (program 35) by \$1.9 million; and
3. Delegate authority to the Administrative Director of the Courts to make any further adjustments to the budget reduction plan if the judicial branch

experiences an acute cash flow situation or the proposed reduction is not passed at the current amount.

D. Budget Reduction Plans

This item was presented as an information item only.

E. Structural Problems in Funds and Deficiency Issues

Approve the following actions to resolve issues pertaining to unfunded, mandated costs; loss of revenue; deficiency issues; and structural problems in designated funds:

1. Direct staff to submit requests during the May Revision of the Governor's Proposed Budget for FY 2003–2004 to address unfunded, mandated costs including funding for interpreter shortages for FY 2001–2002 and FY 2002–2003 (as well as the resubmittal of the FY 2003–2004 finance letter, if not approved), loss of revenues, and other deficiency issues; and
2. Direct staff to meet with the State Controller's Office (SCO) and the Department of Finance (DOF) to establish a dialogue, with the intent of reaching an agreement on methods to address cash flow issues with the Trial Court Improvement Fund.

F. Legislative Proposals Contained in the Governor's FY 2003–2004 Budget Policy Package

Approve the following recommendations relating to legislative proposals contained in the Governor's proposed policy package:

1. At the appropriate time, have the budget trailer bill to the Judicial Council's Policy Coordination and Liaison Committee for a position;
2. Direct staff to work with affected organizations to identify strategies for achieving savings and negotiate compromises in an effort to maximize savings;
3. Direct staff to explore other options for revenue increases that can lessen the impacts of the budget reductions; and
4. Recommend that the Chief Justice, Administrative Director of the Courts, members of the Judicial Council, and members of the Judicial Branch Budget Advisory Committee (JBBAC) advocate with the Governor and Legislature to reduce proposed reductions to the judiciary budget to reflect any changes in the Governor's proposed policy changes either due to negotiated compromises or delays in implementation.

G. Judicial Branch Budget Advisory Committee –Recommended Cost Reduction Measures

Approve the following recommendations on cost reduction measures:

1. Direct staff to investigate the possibility of enhanced collections, including establishment of a working group;

2. Direct staff to develop a list of possible cost recovery improvements and a list of fees that courts can charge, and then to distribute the lists to the trial courts; and
3. Direct staff to develop a statewide process for software licenses and support agreements, and volume discounts for supplies and equipment.

G.1. Recommend adoption of the Judicial Branch Budget Advisory Committee's guiding principles. The council directed that the principles be distributed to interested parties for review and comment and would then readdress the issue at a future business meeting. A motion was then submitted by Justice Norman Epstein to provide for an interim statement to represent the sense of the council: "It is a first priority to preserve access for the public to their courts by maintaining open courts." The motion was seconded and approved.

H. Other Action Items

Approve the following recommendations on other action items:

- Direct staff to initiate discussions with the DOF and the SCO to develop a cash-flow loan process for the judicial branch;
- Direct staff to initiate discussions with the DOF to develop a retirement baseline adjustment funding process for the trial courts, preferably for implementation in the FY 2004–2005 budget process;
- Direct staff to initiate discussions with the Department of Personnel Administration and the DOF to develop a process for recognizing and funding trial court employee benefit cost adjustments in a manner more consistent with the way state agencies are funded for the cost of their employee benefit increases;
- Direct staff to proceed with development of the model to improve resource equity among the trial courts, including the development of staffing standards;
- Direct staff to develop a self-funded audit program, and seek reimbursement authority, if necessary; and
- Direct staff to continue to work with the administration and the Legislature to mitigate, if not completely eliminate, the pro rata charges that have been assessed to these funds or to seek funding to cover funds that have been transferred to support executive branch departments.

III. Fiscal Year 2004–2005

A. Budget Priorities

A.1. *Judiciary*

Approve the following budget priorities for the judiciary (to include the Supreme Court, the California Judicial Center Library, the Courts of Appeal, and the Judicial Council/AOC), and provide that updates may be made to unfunded requests from FY 2003–2004:

- Funding for reclassified positions
- Trial court facilities legislation—infrastructure

- Facilities—rent increases
- Security and judicial protection
- Postage
- Appellate workload staffing standards
- New and unfunded mandatory costs
- Unfunded administrative infrastructure costs (e.g., accounting services, legal, labor relations, procurement, trial court fiscal accountability services, and technology)

A.2. *Trial Courts*

Approve the following statewide budget priorities for trial courts for FY 2004–2005 without a funding cap, and provide that courts be permitted to update unfunded requests in these areas from FY 2003–2004 or provide new information where no request was made in FY 2003–2004:

- Court interpreters’ workload growth
- Increased county charges for county-provided services
- Postage increase
- Trial court staff retirement
- Security NSIs, retirement, and other benefits
- Trial court staff workers’ compensation
- Pay equity adjustments (only submitted and unfunded FY 2003–2004 BCPs)
- Trial court staff NSIs and benefits

B. Deficiency Issues

Authorize staff to develop recommendations and the appropriate vehicles to address funding issues relating to the erosion of judicial branch baseline budgets and unaddressed growth—this could include changes in budget procedures, budget change proposals, and legislative proposals—and to move forward with these recommendations in an attempt to obtain funding to address these issues.

The motion passed.

Special Comments

The Chief Justice welcomed Michelle Castro, visiting from Service Employees International Union (SEIU) and staff from the Department of Finance: Nona Martinez, Assistant Program Budget Manager; Marcia Caballin, Principal Program Budget Analyst; and Sarah Mangum, Staff Finance Budget Analyst.

Item 5 Public Access to Trial Court Budget Information (Action Required)

AOC staff recommends that the Judicial Council approve the recommendation to review detailed trial court budget information at its meetings.

Council action:

The Judicial Council, effective July 1, 2003, approved the AOC staff's recommendation that it review more detailed trial court budget information at its future business meetings, as follows:

1. At the meeting at which the Judicial Council approves budget change proposals for submission to the Department of Finance, information will be provided on:
 - a. The amount of the total statewide request for each budget change proposal.
 - b. The baseline budget as well as any proposed funding changes, such as reductions in one-time allocations from the previous year and increases resulting from budget change proposals, separated and detailed for each individual trial court as applicable.
2. At the first council meeting in which the Judicial Council authorizes allocations to trial courts based on the enacted budget, information will be provided on the final budget allocations by trial court, including approved budget adjustments.
3. The Administrative Director of the Courts, the Chief Deputy Director, and/or the Chief Financial Officer will provide budget updates as appropriate.

The motion passed.

Item 6 Statewide Administrative Infrastructure Initiatives (Action Required)

AOC staff recommends that the Judicial Council reaffirm the past policy approach to development and implementation of statewide administrative infrastructure initiatives in the areas of finance, human resources, information technology, and legal services.

Council action:

The Judicial Council reaffirmed the past policy approach to development and implementation of statewide administrative infrastructure initiatives in the areas of finance, human resources, information technology, and legal services, with modifications to items 1.B, 1.D, and 2.A.

1. The Judicial Council reaffirm its previous direction to the AOC to develop and implement the necessary administrative infrastructure to support the operations of the trial courts to provide efficient, cost-effective, and reliable statewide administrative services (to avoid duplication of services, etc.). This includes such things as:
 - A. Reaffirming its previous direction to staff to continue developing trial court fiscal accountability initiatives and seek the necessary resources to implement the statewide rollout plan for the trial court financial system known as CARS, to provide sufficient resources to support the Trial Court Accounting Processing

Center that supports CARS, and to develop a centralized statewide treasury for use by all trial courts;

- B. Reaffirm its previous direction to staff to continue developing trial court technology initiatives and seek the necessary resources to provide a statewide Technology Center for use by all courts as appropriate, to stabilize courts with critical needs, to focus on a select number of viable case management systems, and supports and urges the continued development and implementation of the California case management system as quickly as possible as the statewide case management system intended for use by all courts.
 - C. Reaffirm its previous direction to staff to continue developing statewide human resources initiatives and seek the necessary resources to provide Trial Court Benefits and Workers' Compensation Programs, to implement statewide systems supporting Trial Court HR needs and Judicial Branch Succession Planning, to conduct Trial Court Fast Track Training and Human Resources Conference, and to implement the Trial Court Interpreters Program (Senate Bill 371);
 - D. Reaffirm its previous direction to staff to continue developing a program and seek the necessary resources to provide comprehensive legal services for the courts, with the intent that all courts will eventually obtain their legal services solely through the AOC. This policy does not apply to research attorneys, who would continue to assist judges in cases pending before the court, and to assist the court in the development of local policies, programs, and rules, and in conducting local policy research activities and educational programs. In addition, large courts with issues that require regular access to legal counsel (e.g., for employment, labor, contract, or judicial administration matters) could request the approval of the Administrative Director of the Courts to place AOC attorneys directly in the court, or to hire their own in house counsel, who would work in coordination with the AOC's Office of the General Counsel.
2. To avoid duplication of service and the unnecessary investment of time and other resources, the Judicial Council established the following policies:
- A. AOC staff shall continue to work together with the trial and appellate courts and provide periodic updates to courts on the development and implementation of statewide administrative services.
 - B. Trial courts interested in pursuing an alternative to a statewide approach shall obtain the review and approval of the Administrative Director of the Courts before proceeding;
 - C. Requests for new funding will not be approved when a statewide approach for delivering the service is available; and
 - D. AOC staff shall make recommendations to the council to redirect funds no

longer needed for delivery of an administrative service when a statewide approach is implemented; recommendations should provide options that support statewide services and permits reallocation of the savings to other unfunded mandates in the local court, or if none, to other trial courts.

The motion passed.

Item 7 Family Law Information Centers: Approval of Report to the Legislature (Action Required)

The Family and Juvenile Law Advisory Committee and the Task Force on Self-Represented Litigants recommend that the Judicial Council approve the attached report, *An Evaluation of the Success of Three Pilot Family Law Information Centers*, and direct staff to forward it to the Legislature.

Council action:

The Judicial Council approved the report, *Family Law Information Centers: An Evaluation of Three Pilot Programs* and directed staff to forward it to the Legislature. In addition, the council asked staff to develop a plan for a statewide implementation of Family Law Information Centers, and present a budget proposal to the Judicial Council for fiscal year 2005–2006.

The motion passed.

Special Comment

Judge Ronald Sabraw acknowledged and congratulated Ms. Deborah Chase, who was selected by *California Lawyer* as one of 20 “Lawyers of the Year.” Judge Sabraw added that while the financial investment may be small, the investment of talent like Ms. Chase’s in the Family Law Center is reflected in the success of the program.

Circulating and Appointment Orders Approved

Circulating Orders:

Circulating Order—CO-02-01: Subordinate Judicial Officers: Practice of Law

**Circulating Order—CO-02-02: Delegation of Authority to Negotiate Amendments to
Fiscal Year 2002–2003 and Fiscal Year 2003–2004
Budgets**

For information only; no action necessary.

Appointment Orders:

For information only; no action necessary.

There being no further business, the meeting was adjourned at 12:25 p.m.

Respectfully submitted,

William C. Vickrey
Secretary