



# Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

303 Second Street, South Tower • San Francisco, California 94107 • PHONE 415 396-9100 FAX 415 396-9349

TO: Members of the Presiding Judges Standing Advisory Committee  
Members of the Court Administrators Standing Advisory Committee  
Members of the Trial Court Budget Commission

FROM: William C. Vickrey  
Administrative Director of the Courts

DATE: June 5, 1995

RE: FY 1995-96 Trial Court Funding Proposal

Please find attached correspondence which was sent to various legislative leaders and representatives of the Governor's Office regarding a proposed means of funding the trial courts for FY 1995-96 (A list of all addressees is also attached.). As we move into the more intense portion of the legislative season for resolving the state's budget, it is of great concern that the resolution of trial court funding needs remains highly problematic.

The Governor's Office and his Department of Finance are continuing to strongly advocate for some type of realignment proposal that will address the needs of the trial court. As of this time, the Governor's modified proposal that was included as part of his May revised budget, has been generally not supported by the counties or the Legislature. In addition, individual courts has spoken up where they have felt proposals might adversely affect either their counties or their courts. It is very difficult for the Legislature or the Governor to find a solution which treats each individual county in an equitable manner while still addressing trial court funding needs and larger state program and budget needs. The cumulative result demonstrates once again that it is easier to defeat a proposal than it is to get any new change implemented.

The Governor has repeated indicated that he is willing to seriously consider options for trial court funding other than the one he has placed on the table for discussion. Similarly, in a meeting held last week by the Chief Justice, with the leadership of the California State Association of Counties, the counties also strongly stated that they were committed to achieving a successful resolution to trial court funding issues this year. I am very concerned that if we are not able to achieve some significant progress on trial court funding this year, it may be viewed as a dead letter next year by legislative leadership and the Governor.

**I am asking that the Standing Advisory Committee of Presiding Judges and Court Administrators to initiate immediate individual contacts in writing and by telephone with every legislator from judges and administrators, communicating the urgency of resolving the trial court funding dilemma. The resolution of the state's budget for FY 1995-96 must include trial court funding as a necessary element. A solution to trial court funding must include:**

- **a substantial increase in state funding**
- **a clear definition of state and county responsibilities for the funding of the trial courts.**

I recognize that we have sounded this bell of alarm many times in the past and I also understand that many of you may have significant differences of opinion with the proposal that I sent to the Legislature for consideration. I am asking that we debate in-house the merits of this or any other proposal, while communicating to the legislature in a clear unmistakable way, a consistent view across courts as to the urgency of resolving trial court funding needs.

Please send copies of correspondence that is sent to the legislators to the attention of Kiri Torre. Also, if you have individual telephone calls that are of significance, please communicate the content of those conversations to Kiri. I am hoping that you can create a landslide of letters and communications to the legislator's as opposed to a single piece of correspondence from the presiding judge or the court executive.

Thank you for your help.

Attachments



# Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

303 Second Street, South Tower • San Francisco, California 94107 • PHONE 415 396-9100 FAX 415 396-9349

June 2, 1995

[ADDRESS]

Re: Trial Court Funding Proposals

Dear :

I am writing to offer several state and county partnership proposals for discussion in an effort to resolve trial court funding problems which have plagued the trial courts, counties, and the state for the past several years.

Significant efforts have been made by you and others to meet the statutory objectives and the policy goals of state trial court funding. This leadership has led to increased cooperative efforts by all parties involved to find a realistic solution that will:

- Promote equal access to courts throughout the state.
- Enhance fiscal accountability.
- Promote statewide planning, priority setting, operational policies, and accountability for the judiciary in administering the resources available for the operation of the trial courts.
- Promote a stable funding process for the trial courts with clear division of responsibility for the state and county.
- Increase the flexibility of the courts to allocate resources to courts based on isolated problems, workload shifts, etc.
- Increase the flexibility of courts within a county to coordinate all available resources in the most efficient and effective manner possible.
- Promote the management autonomy of local courts to permit them to be held accountable for managing resources in a manner that is responsive to local needs while consistent with statewide policies.

Through the efforts of local courts and counties, a great deal of progress has been made in the budget development process. Revenue and expenditure data is clearer and more reliable. Standards for minimum service

levels and related budget evaluation criteria for the trial courts are nearly complete. Documented funding needs and implications for basic court operations in each trial court are available. However, the convergence of state economic problems with the complexity of crafting a realignment proposal that is financially fair to individual counties and the state while meeting the policy goals of trial court funding has proven to be a nearly insurmountable obstacle to the implementation of state trial court funding.

For the past several years, the trial courts, counties, and state have been placed in a very difficult position as a result of the split funding responsibility between the state and counties. The state has provided 34 percent funding for the trial courts in FY 1994-95, leaving the remainder for the counties to fund. Some of the adverse consequences have been:

- Increased disparity in the level of access and quality of justice from county to county (See Attachment 3).
- Inability to meet the goals of trial court funding.
- Increased detrimental friction between the courts and local government.
- Inability of the courts to meet the most basic demands of their caseloads consistent with statutory and constitutional requirements.
- Unpredictable adverse financial consequences for counties.
- No defined limit to state financial responsibility and no means for the state to implement financial policies and priorities.
- Confusion for courts who must present budgets to two levels of government who operate on different time frames with different priorities, and with no clear accountability for trial court operations.

I have reduced to writing a concept on how to proceed with state funding on a county-by-county basis. This proposal is presented with several variations all of which have the following features:

✓ NOT DEPENDENT ON REALIGNMENT

The proposals are not dependent on, but may facilitate various other state and local partnership proposals under discussion (e.g. Corrections, A.F.D.C.).

✓ CAPS COUNTY FINANCIAL OBLIGATION

None of the proposals reduce county trial court costs below the 1994-95 level, but they do insure the counties against liability for future cost growth in significant or all areas of court operation depending on alternative presented. The proposals cap each individual county at its projected 1994-95 expenditure level.

✓ PROVIDES CLEAR LINE OF ACCOUNTABILITY BETWEEN THE STATE AND COUNTIES FOR TRIAL COURT FUNDING

All of the proposals delineate clearly areas of state and county responsibility; they permit the budget process to be simplified while improving the focus of discussion between the courts, state, and county on budget matters.

✓ FACILITATES STATEWIDE POLICIES AND FLEXIBILITY

The alternatives improve the ability to implement statewide policies deemed necessary for the improved administration of the courts (e.g. integrated information systems, court coordination).

✓ PROMOTES STABILITY IN TRIAL COURT OPERATIONS

At a minimum, the proposals shift the majority of responsibility for court operations to the state, and clearly define those areas for which the county will remain solely responsible.

✓ INCREASE FLEXIBILITY AND ACCOUNTABILITY FOR LOCAL AND STATEWIDE MANAGEMENT OF THE COURTS

These proposals permit the courts to be held accountable for the most efficient and effective use of resources. They allow the courts to address many of their own problems which occur on a frequent but sporadic basis by shifting resources when necessary to meet unanticipated crises in individual courts.

In order to address some of these goals and provide you some choices as how to proceed in a positive way to address some of our critical budget needs, I am providing three concepts. Keeping in mind that to be successful, any concept would need the support of the state and the counties, each proposal includes a brief list of some of the benefits for the state and the counties which will occur as

a result of implementing that concept. It has not been circulated for comment to or approved by the Judicial Council or any of its committees.

The three proposals presented are as follows:  
(See Attachment 1)

- ⇒ **The first proposal** divides responsibility for **designated functional budget categories** between the counties and the state, with the state billing the counties for part of their share of the financial responsibility and the counties negotiating the remainder of the budget with their local courts. The state assumes responsibility for future growth for budget categories designated as state responsibility; the county remains responsible for the limited categories identified as county responsibility.
  
- ⇒ **The second proposal** gives the state responsibility for **all functional budget categories**, with the state billing the counties for their full share of the financial responsibility. The state assumes responsibility for all future growth.
  
- ⇒ **The third proposal** divides the responsibility for **designated functional budget categories** between the counties and the state, and the counties negotiate the remainder of the budget with their local courts, **with the exception that the state funds the 19 smallest counties at 100 percent.**

In addition, Attachment 2 proposes a formula for the distribution of fine revenue with the goal of ensuring status quo in revenue to the counties as to the current level of fine revenue with an incentive for counties and cities for future growth.

The Judicial Council's approved Fiscal Year 1995-96 trial court budget, which was presented to the Governor, was based upon careful documentation of trial court needs, focusing primarily on constitutional and statutory mandates. The courts must be fully funded in order to comply with those mandates. This concept paper has been prepared reflecting the requested redirection of fine and forfeiture revenue and collection responsibility to the counties, and also including an option that reflects a two and one-half percent (2.5%) unallocated reduction to each proposal. (In the event of such a reduction, the courts must be given the

statutory and rule-making authority that would allow courts to manage their resources as outlined in each proposal.)

A solution to the trial court funding issue is desperately needed this year. In many courts chronic under funding is severely eroding the quality of our courts and jeopardizing cooperative local working relationships necessary for an effective justice system (See Attachment 3).

This proposal represents only my own thoughts and is presented for discussion. Your examination may reveal conceptual problems or questions on financial calculations. With that understanding, I am providing copies of this letter to various local and state officials for reaction.

Thank you for taking the time to consider this proposal. Please let me know if I can provide any further information.

Sincerely,

William C. Vickrey  
Executive Director

Attachments

cc: Members of the Judicial Council  
Members of the Trial Court Budget Commission  
Members of the Presiding Judges & Court Administrators  
Standing Advisory Committees

## *IMPACT OF INSUFFICIENT TRIAL COURT FUNDING*

Due to the financial crises facing counties, many courts are severely underfunded resulting in serious operational problems. The lack of stable and sufficient funding has drastically impeded the judiciary's ability to ensure that trial courts comply with state mandates, including but not limited to the following:

- ❑ State mandates not being met resulting in:
  - ⇒ Courts' inability to pay arbitrators' fees, which is contrary to statute.
  - ⇒ Courts' inability to pay fees to all jurors from the first day of service, as intended by statute.
  - ⇒ Report of Disposition (JUS 8715 Form) Forms not being completed by courts, resulting in incomplete criminal history records for felons and serious misdemeanants.
  - ⇒ Significant delays (i.e., more than 90 days) in paying vendors who have provided services to the courts (e.g. interpreters, court reporters, temporary employees, etc.).
  - ⇒ Delays in all civil matters due to increasing criminal workloads.
- ❑ Delays in enforcing court orders due to lack of staffing and/or insufficient automated systems resulting in:
  - ⇒ Restraining orders not being served promptly in domestic violence situations.
  - ⇒ Warrants of arrest not being processed in a timely manner, thus leaving potentially dangerous persons on the street.
  - ⇒ Significant delays in recalling warrants of arrest, which lead to potential false arrests resulting in liability to the state and counties.
  - ⇒ Lengthy backlogs in processing commitments to state prisons, resulting in county jail overcrowding and early release of individuals who would otherwise be detained locally.
  - ⇒ Delay in processing child custody and support orders by up to 3 weeks, causing family strife, stress to children, and additional AFDC costs.
  - ⇒ Lengthy backlogs in processing unlawful detainer actions to evict tenants from property for which rent has not been paid.
  - ⇒ Delays in filing of orders with the Department of Motor Vehicles to suspend or restrict driving privileges resulting from convictions for drunk driving, reckless driving, or speeding, thus reducing highway safety.
  - ⇒ Delay in timely release of patients from state mental hospitals after they have been found competent, resulting in higher costs to the State.





JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS  
303 Second Street, South Tower • San Francisco, California 94107

July 20, 1995

Elizabeth G. Hill  
Legislative Analyst  
925 "L" Street, Suite 1000  
Sacramento, California 95814

RE: Legislative Analyst's Office Proposal on State Trial Court Funding  
Restructuring

Dear Ms. Hill:

This communication is in response to the memorandum from David Esparza and Craig Cornett, Legislative Analyst's Office (LAO) on the above subject (*Attachment A*). Although the memorandum was not directed to the Judicial Council, I did receive a copy from our Legislative Advocate, Michael Corbett, to whom the memorandum was addressed. \*

The proposal assumes that, absent direct incentives for performance, it is unlikely that efficiencies or access to justice goals will be achieved. The stated intent is to provide for an alternative funding structure that will save money in 1995/96 and reward counties that have successfully implemented efficiencies that the Legislature has recommended. Upon review of the memorandum, I feel compelled to address several points raised in the restructuring proposal which are discussed below:

The memorandum indicates that the basic problems with the existing trial court funding program are 1) the program does not contain incentives for trial courts to coordinate or consolidate their operations, 2) some trial courts have been reluctant to implement various coordination and consolidation measures, and 3) the state currently does not have the resources to fund all trial courts at the legislatively intended level of 70 percent in 1995/96.

With regard to the first contention of the LAO memorandum, *that the program does not contain incentives for trial courts to coordinate or consolidate their operations*, it should be noted that the Judicial Council unequivocally supports coordination and is committed to increased efficiency in court operations and increased quality of service to the public. To that end, the council created a Select Coordination Implementation Committee to:

- 1) Articulate the goals of administrative coordination and recommend specific measures to improve court operations through administrative coordination;
  - 2) Articulate the goals of judicial coordination and recommend specific measures to improve court operations throughout judicial coordination;
  - 3) Establish appropriate time frames for implementation of its recommendations;
- and
- 4) Provide recommendations for implementing methodologies on the legislative mandate of Assembly Bill No. 2544.

In arriving at its recommendations, the Select Committee recognized that the Judicial Council needed to provide specific, clearly articulated, and strong leadership by identifying certain minimum levels of coordination in each county; and the Rules of Court to be enacted by the Judicial Council needed to set realistic time frames for implementation. The recommendations, as outlined in the Executive Summary of the Report of the Select Coordination Implementation Committee, set forth specific, measurable, and verifiable actions to be taken by the trial courts in each county (*Attachment B*). Upon review of those recommendations, it is clear that the Judiciary has adopted a feasible plan to implement court coordination in all trial courts in the state, as evidenced by the examples noted below:

- By July of 1996, all trial courts must coordinate judicial activities in order to maximize the efficient use of all judicial resources within the county and enhance service to the public. Many of the 1800 judicial officers are currently coordinating their judicial assignments.
- At the same time, courts must integrate all direct court support services for all courts within a county, as specified. Given that there are approximately 19,000 trial court employees with over 1500 job classifications, and several representative union affiliations, courts need lead time in order to affect this change in court operations.
- By September of 1996, courts must adopt a common plan for county-wide implementation of information and other technologies, with project benchmarks established in 1997 and 1999.
- Beginning with fiscal year 1997/98, courts are required to submit a unified budget for all trial courts within the county and to establish unified financial management and budget procedures no later than fiscal year 1998/99. Given that there are over 175

trial courts with a total budget of approximately \$1.72 billion dollars, the time frames for implementation are extremely reasonable.

With regard to the second contention of the LAO memorandum, *that some trial courts have been reluctant to implement various coordination and consolidation measures*, a few trial courts reconsidered their approaches to coordination in light of legislative activities surrounding the issue of coordination, unification and funding. However, since the Judicial Council's adoption of the Select Committee's report, all courts which have not already fully implemented their coordination plans are now reviewing their approaches to coordination in order to meet the stated time frames for implementation. A complicating factor is the volume and complexity of legislative mandates which are enacted each year. These mandates, such as the "Three Strikes" legislation, force the courts to apply scarce resources to address the most critical impacts resulting from those mandates which results in fewer resources being available to address coordination mandates.

It should be noted that the Judicial Council has taken the leadership role in this area by being the first state court system to adopt minimum service levels for trial court operations. The Judicial Council adopted the report entitled *Initial Statewide Minimum Standards for Trial Court Operations and Staffing* at the July 13, 1995 business meeting (*Attachment C*). These standards were recommended to the Judicial Council by the Trial Court Budget Commission after seven months of extensive review and deliberation by over 100 judges, court administrators, and county representatives. The standards set forth minimum service levels and best practices that will help guide the courts in budget submissions beginning in fiscal year 1997/98. The intent of the standards is to ensure that courts provide a minimum level of service to its constituents. The key to implementing these standards is adequate funding in order to ensure equal access to the judicial system throughout the state.

With regard to the third contention of the LAO memorandum, *that the state currently does not have the resources to fund all trial courts at the legislatively intended level of 70 percent in 1995/96*, it should be noted that the judiciary's total annual budget for fiscal year 1994/95 made up approximately 1.4 percent (\$778 million) of the overall State budget. A total of \$455 million in local trial court revenues was transferred to the State in fiscal year 1994/95, which equals 58 percent of the State's funding contribution for the entire Judiciary (i.e., both the appellate and trial courts). I recognize that the Governor and Legislature must make the difficult choices in setting funding priorities. In recognition of this challenge, the Administrative Office of the Courts (AOC) has proposed three alternative trial court funding proposals, each of which would have a minimal impact on the state's funding responsibility to the Judiciary (*Attachment D*). Prior to adopting the notion that the State is unable to adequately fund the courts, I urge you to carefully consider the AOC's alternative funding proposals which, at most, will cost the State an additional \$14.5 million above the fiscal year 1994/95 funding level.

As you are aware, the Brown-Presley Trial Court Funding Act of 1988 required the state to assume primary responsibility for funding the operations of the trial courts in counties that choose to participate in the program. The Trial Court Realignment and Efficiency Act of 1991 significantly modified the program and specified the Legislature's intent to increase state support for trial court operations 5 percent each year, from 50 percent in 1991/92 to a maximum of 70 percent in 1995/96. The primary goals of the Trial Court Funding Program are to promote a uniform statewide application of justice, provide additional fiscal relief to counties and to implement efficiencies that would reduce the annual increase in trial court operating costs. In order to carry out these goals, the trial courts are in critical need of the funding level outlined in the legislation.

It appears that the proposal outlined by the LAO is a variation of Option 3 of the AOC Trial Court Funding Proposal, however, the LAO variation does not include many of the key components contained in the AOC proposal which would ensure the advancement of the goals of Trial Court Funding. The premise of the LAO proposal is that the state's goals for funding trial court operations are better served by allocating the state's limited resources based on a trial court's program performance rather than on a block grant approach. While I agree with the premise, I disagree with the LAO's approach to eliminate funding to trial courts which have not met an arbitrary definition of court coordination. The current state funding level for trial court operations is approximately 34 percent, the balance of which presumably comes from the counties. Due to local fiscal crises, trial courts are operating at significantly below needed funding levels due to county cutbacks which severely hamper their ability to implement innovative programs that typically require initial one-time capital investments. As the level of trial court funding has continually decreased from 50 percent in 1991/92 to 34 percent in 1994/95, it has been impossible to move away from the current allocation formula. To do so would result in drastic budget reductions at the local level, since in many instances counties could not make up any reductions in state funding.

The LAO proposal requires all trial courts within a county to meet certain coordination and consolidation criteria in order to qualify for 70 percent state funding, except for judicial salaries and benefits, which the state would pay, presumably by July 1, 1995. This concept is in direct conflict with the comprehensive coordination implementation plan adopted by the Judicial Council. The issues surrounding coordination require thoughtful planning and implementation in order to ensure equal access and quality justice to the public, while seeking to realize efficiencies and cost effectiveness. If the LAO proposal were adopted, it would result in a dismantling of the entire coordination program which has been carefully designed by the Judiciary. With this drastic approach, those courts which do not fit the proposal's definition of court coordination, will be stripped of the funding necessary to ensure public access to the courts, will not allow the courts to provide for minimum service levels and will cripple the ability of those courts to implement the directives set forth in the Select Committee's report.

The criteria outlined in the LAO proposal are inconsistent with the Select Committee recommendations adopted by the Judicial Council and the current approach of the Trial Court Coordination Evaluation Committee (TCCEC). The TCCEC has restructured the categories of coordination from 24 elements to three broad categories: 1) Judicial Coordination, 2) Administrative Coordination, and 3) Case Processing Coordination, each with more clearly defined sub-categories. The Judicial Council adopted a new coordination reporting format to complement the Select Committee recommendations. The report entitled "Trial Courts' Implementation of Coordination Activities through December 1994", was adopted by the Judicial Council at the July 1995 business meeting (*Attachment E*). Tab 5 of that report displays the new reporting format adopted for each countywide trial court coordination progress report. Also included for your information is a summary chart indicating the level of coordination implemented through March of 1995, using the newly adopted standards and new reporting format (*Attachment F*). From a countywide perspective, a significant majority of trial courts have some level of coordination in each of the three major categories identified above. A greater level of coordination exists when viewed from the perspective of smaller court groupings within a county. The individual county reports are available for review upon request.

The LAO analysis is based on outdated March 16, 1994 report from the Judicial Council on "Trial Courts' Implementation of Coordination - First Year (1992/93). This report evaluates the first of a three year coordination effort. To use this report in evaluating the current status of coordination is inappropriate. The LAO analysis also omits any reference to the Select Committee's recommendations adopted by the Judicial Council. It is therefore inappropriate to use the comparison of the outdated 24 elements referenced in the proposal. Aside from the outdated criteria used in the proposal, the LAO's use of a status report from the first year of a three year implementation time frame is inappropriate. In other words, if courts did not coordinate in five of the seven designated areas in the first year of coordination (i.e., fiscal year 1992/93), they receive no state funding. Without state funding, the courts cannot achieve the goals of the Trial Court Funding Program. These are the critical flaws in the proposal.

The LAO proposal also provides 100 percent state funding for trial court operating costs for the 19 smallest counties, which is consistent with the AOC proposal. However, the LAO proposal does not state that these counties must comply with any coordination criteria. In addition, the LAO proposal does not include any of the efficiency or cost savings recommendation, as outlined in the AOC proposal, which are critical if the courts are to manage existing court operations and contain future court costs in a consistent manner statewide.

The last component of the LAO proposal, providing 100 percent state funding for judicial officer salaries and state benefits is in compliance with current statutory requirements and

is consistent with the AOC proposal, given that Function #1 (Judicial Officers) is designated a state-funded function.

Internally, the TCCEC found that the original 24 elements of coordination were too subjective and unquantifiable, thus the Judicial Council adopted the new standards and reporting format. It is inappropriate to use a subjective and outdated approach in determining which courts are considered "coordinated", and using that information as a basis for funding trial courts.

The projected savings identified in the LAO analysis are the result of drastically reducing state funding to trial courts and their respective counties, thus resulting in an overwhelming financial burden to counties. The LAO proposal does not address the concerns outlined in the preface of the memorandum from the LAO; in fact this funding approach exacerbates the problems by disabling trial court operations throughout the state.

The proposal also suggests a change in the membership of the Trial Court Budget Commission (TCBC), a standing committee of the Judicial Council. The premise that the membership of the TCBC is composed of 26 judges representing only the counties in which they sit is false. The TCBC is comprised of 26 judges representing all trial courts in 58 counties throughout the state. Attached is a listing of the current membership and the breakdown of the counties represented within each region (*Attachment G*). In addition to the judges, there are four court administrator advisory members and two county administrator advisory members. The current structure of the TCBC provides for representation of the courts in 58 counties while keeping the group to a manageable size. The policies adopted by TCBC members are in the best interest of the judiciary as a whole. All formal actions by the TCBC must be brought before the Judicial Council for adoption. The reference to block voting by larger counties is not true. The policies adopted by the TCBC and presented to the Judicial Council address public policy concerns for a statewide court system.

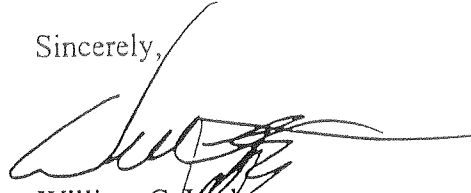
It should be noted that the TCBC's Budget Evaluation and Appeals Committee (BEAC) consists of judges as well as a court administrator and county administrator, all of whom have equal status on the BEAC. The TCBC's budget review process is both comprehensive and objective. Each year the review process is refined, allowing for a more comparable review with courts of like structure. Attached for your review is the Executive Summary of the budget development process used in fiscal year 1995/96 (*Attachment H*).

The TCBC extensively debates policy issues in order to address the concerns of all courts, large and small, and arrives at decisions which promote the administration of justice. Representatives from the California State Association of Counties, the LAO, the State Controller's Office, the Department of Finance, and individual counties are invited

to participate in the debates that occur at the TCBC meetings. All viewpoints are taken into consideration when the final policy recommendations are determined. Once those policies are forwarded to the Judicial Council, there is often additional debate on the issues surrounding these policies prior to final adoption.

If the courts are to govern their own fiscal affairs, they must be given the authority to do so. The LAO proposal, while well intentioned, would serve to dismantle the Trial Court Funding Program and the Trial Court Coordination efforts throughout the state. I would be pleased to meet with you further on this critical topic at your earliest convenience.

Sincerely,



William C. Mackrey  
Director

Attachments

cc: Hon. Malcolm M. Lucas, Chief Justice  
Hon. Pete Wilson, Governor  
Hon. Doris Allen, Speaker of the Assembly  
Hon. Willie L. Brown, Jr., Speaker Emeritus  
Hon. James Brulte, Republican Caucus Chair  
Hon. Bill Lockyer, Senate President Pro Tempore  
Hon. Kenneth L. Maddy, Senate Republican Floor Leader  
Members of the Realignment Working Group  
Members of the Budget Conference Committee  
Members of the Judicial Council  
Members of the Trial Court Budget Commission  
Presiding and Sole Judges of the Trial Courts  
Court Executive Officers, Court Administrators and Clerks of Court  
Mr. Russ Gould, Director, Department of Finance  
Mr. Steve Szaley, Executive Director, CSAC  
Ms. Carolyn McIntyre, Legislative Representative, CSAC  
Mr. Michael Corbett, Legislative Representative, AOC  
Mr. Craig Cornett, LAO  
Mr. David Esparza, LAO



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ADMINISTRATIVE OFFICE OF THE COURTS

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August 23, 1995

Hon. Pete Wilson  
Governor  
State of California  
First Floor, State Capitol  
Sacramento, California 95814

**RE: Funding Crisis in the Trial Courts - Action Recommended by the Judicial Council**

Dear Governor Wilson:

The state budget adopted for Fiscal Year (FY) 1995-96 resulted in an appropriation of \$592 million below that which was proposed in your budget. The lack of significant increased funding has alarmed many of the trial courts in the state. I received very troubling correspondence from the trial courts of Orange County and from the Administratively Unified Courts of Los Angeles County (Los Angeles Superior Court and the Malibu, Pasadena and Santa Monica Municipal Courts). This correspondence indicates the Orange County trial courts are facing a shortfall of over \$42 million this fiscal year while the Los Angeles Administratively Unified Courts report a projected shortfall of \$37 to \$40 million. The Los Angeles courts state that available operating funds may be exhausted by April of next year while the Orange County courts indicate they may not be able to meet the most minimal constitutional requirements for continued operation through the entire fiscal year.

In addition to the well publicized financial problems which have befallen Orange County, I am also aware, from my meetings with the leadership of the California State Association of Counties (CSAC), that many counties will not be in a position to sustain prior funding levels let alone provide increased funding for the trial courts this fiscal year.

The Judicial Council continues to have grave concerns about maintaining the ability of the courts to operate in order to ensure public access to the courts and ensure that the laws of California are applied and enforced evenly for all people. Therefore, the council requested that the Trial Court Budget Commission (TCBC) and, jointly, the Presiding Judges' (PJs') and Court Administrators' (CAs') Standing Advisory Committees meet in extraordinary session to address the funding crisis in the trial courts. The committees submitted recommendations for immediate and long-term action in a report to the council on August 21, 1995 (**Attachment #1**). Based on the recommendations contained in this report, the council developed a three-pronged proposal along with a proposed implementation timeline outlining related action items (**Attachment #2**). The three components are outlined below:

Draft: August 23, 1995 - 4:42 PM



**I. Secure urgency legislation in September of 1995 to provide for operational efficiencies and mandate relief in order to allow courts to redirect scarce resources to address critical mandates.**

The following recommendations were carefully selected by the Judicial Council from over 40 options identified in the report from the TCBC and PJs' & CAs' Committees to the council:

1. ***Suspend juror compensation:*** Code of Civil Procedure section 215 establishes a minimum fee of \$5 per day for each day's attendance as a juror, plus reimbursement for mileage at the rate of fifteen cents per mile, one way, for each mile actually traveled in attending court as a juror. The recommended suspension of juror compensation would result in a savings in juror fee and mileage costs exceeding \$19 million annually. (Requires a statutory amendment)
2. ***Eliminate the right to jury trial in misdemeanor cases in which the maximum sentence is six months or less in county jail:*** Several suggestions have been made recently to eliminate the right to a jury trial in misdemeanor cases in which the maximum sentence is six months or less in county jail, pursuant to the United States Supreme Court case of Blanton v. North Las Vegas. Jury trials would continue to be available for serious misdemeanor offenses punishable by up to one year in jail. (Requires a constitutional amendment)
3. ***Reduce the size of juries in certain types of cases:*** Senate Bill No. 56 is currently pending in the Legislature which would reduce the size of civil juries in the municipal court from 12 to eight. The Judicial Council has voted to support the bill if the number of peremptory challenges are reduced accordingly. The author has agreed to this amendment. (Requires a statutory amendment)
4. ***Suspend arbitrator fees:*** Code of Civil Procedure section 1141.18 establishes a minimum fee of \$150 per case, or \$150 per day, whichever is greater, for payment of arbitrator fees. The elimination or suspension of arbitrator fees would result in a savings of approximately \$8 million annually. In order to continue arbitration programs, trial courts would be authorized to adopt local rules of court requiring the parties to pay the fees of arbitrators. (Requires a statutory amendment)
5. ***Reclassify certain misdemeanors as infractions:*** A proposal to reclassify certain misdemeanors as infractions was recently circulated for statewide comment but ran into opposition from various sources. The proposal addresses the disproportionate amount of trial court time and resources spent on lesser offenses at the expense of greater attention to serious offenses and civil actions. (Requires amendments to Penal Code (PC) sections 17 and 19.6 and repeal of PC 19.8)

**II. Obtain deficiency appropriation funding from the state in October of 1995 to address the most critical funding shortfalls in the trial courts.**

The Judicial Council will submit a deficiency appropriation request to the state in October of 1995 seeking funding to meet the documented emergencies existing in courts such as Orange County and Los Angeles County. While additional revenue resulting from the proposals outlined below would reduce the net deficiency facing the trial courts, it will not obviate the need to submit a request to the state for a deficiency appropriation.

**III. Secure urgency legislation in January of 1996 to increase revenues dedicated to trial courts in order to address constitutional and statutory mandates.**

California must prevent the issues related to trial court funding from reaching a crisis level. In January of 1995, the Judicial Council will seek urgency legislation to enact legislative proposals which would generate new revenues. These revenues would be deposited into the state Trust Fund and dedicated to fund critical trial court programs which would otherwise go unfunded. Once the legislation is enacted, the council will request authorization for the supplemental appropriation of the new revenues that will flow into the Trust Fund. These funds will then be available to the trial courts upon approval of a supplemental allocation schedule by the Judicial Council.

In preparation for submission of the revenue proposals to the Legislature, it is imperative that the council conduct a survey of the trial courts to estimate the anticipated revenue from these proposals. In addition, meetings will be held prior to January with groups affected by these proposals to seek their support prior to the introduction of these legislative proposals.

The judiciary has a responsibility to make necessary budget reductions, as well as operational changes, to ensure that we are part of the solution to the prolonged budget crisis facing our state. Nevertheless, there are limits which should not and must not be crossed. The information from Orange and Los Angeles Counties indicates we may have reached such a limit. The recommendations contained in this proposal are not pain-free for the trial courts, but they must ensure continued access for all citizens to our civil and criminal trial courts.

I look forward to meeting with you in the coming week to present this proposal and discuss the next course of action. Thank you for your immediate attention to this matter.

Cordially,

MALCOLM M. LUCAS

Attachments

cc:

KT274



JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS

303 Second Street, South Tower • San Francisco, California 94107 • PHONE: (415) 396-9296 FAX:  
(415) 396-9281

August 21, 1995

Hon. Malcolm M. Lucas, Chair  
Judicial Council of California  
303 Second Street, South Tower  
San Francisco, CA 94107

Re: *Funding Crisis in Trial Courts--Report of Meetings Held in Extraordinary Session*

Dear Chairperson:

This report is a joint response to your letter of August 15, 1995, to the chairs of the Trial Court Budget Commission (TCBC), the Presiding Judges' (PJs') Standing Advisory Committee, and the Court Administrators' (CAs') Standing Advisory Committee. We agree that the judiciary has an absolute responsibility to be a decisive and active participant in resolving the prolonged budget crisis. In recognition of the responsibilities of all government in the current economic and political climate, the court system must pull itself out of this morass which hinders fair and swift justice.

On August 16, 1995, the TCBC, and, jointly, the PJs' Standing Advisory Committee and the CAs' Standing Advisory Committee held extraordinary sessions to consider the critical issues raised in your letter. We ask that you consider our responses set forth below in the report in your continued efforts to meet the most critical needs of the trial courts.

It is the consensus of the members of the TCBC and PJs' and CAs' Standing Advisory Committees that a crisis in the trial courts is imminent unless immediate intervening action is taken. We stand ready to assist in your efforts to achieve both immediate relief in this genuine crisis and a stable long-term funding solution for the trial courts.

Sincerely,

Handwritten signature of Robert M. Mallano.

Hon. Robert M. Mallano, Chair  
Trial Court Budget Commission

Handwritten signature of James L. Smith.

Hon. James L. Smith, Chair  
Presiding Judges' Standing  
Advisory Committee

Handwritten signature of Ron Overholt.

Mr. Ron Overholt, Chair  
Court Administrators' Standing  
Advisory Committee

cc: Members of the Trial Court Budget Commission  
Members of the Presiding Judges' Standing Advisory Committee  
Members of the Court Administrators' Standing Advisory Committee

*FUNDING CRISIS FACING TRIAL COURTS:*

*A REPORT OF MEETINGS HELD IN EXTRAORDINARY SESSION OF*

*THE TRIAL COURT BUDGET COMMISSION*

*AND*

*THE PRESIDING JUDGES' AND COURT ADMINISTRATORS'  
STANDING ADVISORY COMMITTEES*

*Submitted: August 21, 1995*

## FUNDING CRISIS IN TRIAL COURTS REPORT OF MEETINGS HELD IN EXTRAORDINARY SESSION

This report is a joint response of the Trial Court Budget Commission (TCBC), the Presiding Judges' (PJs') Standing Advisory Committee and the Court Administrators' (CAs') Standing Advisory Committee to the August 15, 1995, letter from the Chair of the Judicial Council regarding the funding crisis facing the trial courts. The responses to the issues outlined in the Chairs' letter were developed during an extraordinary session of the TCBC and a joint extraordinary session of the PJs' and CAs' Standing Advisory Committees, both of which were held on August 16, 1995.

### I. JOINT TRIAL COURT BUDGET COMMISSION AND PRESIDING JUDGES AND COURT ADMINISTRATORS STANDING ADVISORY COMMITTEE ISSUES:

*Identify in as much detail as possible all counties significantly affected and the specific implications for their local operations.*

An open survey of trial courts was recently conducted seeking examples of the impact current state funding will have on the trial courts in 1995/96. The survey results are alarming, suggesting an incremental, systematic starvation of the judicial system by way of reduced state funding:

- Courts in Los Angeles County and Orange County, representing a significant portion of the judiciary and citizenry, report that current levels of funding from all sources will be fully depleted by March or April next year. Judges will do all that they can to continue courtroom operations, but can do little without administrative services. These courts alone estimate a combined funding shortfall exceeding \$80 million.
- Over 90% of the responses indicated that the current level of state funding is inadequate compared to the constitutional and statutory mandates required of the trial courts which provide front line judicial services to our citizenry. Virtually all responses indicated that their counties are in no fiscal position to make up the shortfall in critical funding.
- Over two-thirds of the responses indicated staff reductions were forthcoming. Some courts accentuated that other alternatives would be used, included unpaid furloughs.
  - Los Angeles Superior Court has already reduced its staff by 500, while the workload has increased.
  - San Bernardino Courts estimated that \$900,000 has been taken from its staff in the form of unpaid furloughs which result in court closures 10 days per year.
- A significant portion of responses indicated that the current funding level will result in a direct and visible deterioration of access to the judicial system. Since a smaller staff must do more in less time:
  - Office hours of Clerk's Offices are again being reduced.
  - Public counters are staffed at reduced levels, which impedes both filing of new documents and public access to existing files.

- Telephone access to "real people" in the courts is being further reduced. In some rural locations, there is no public access to the court via the telephone.
- Numerous courts report deterioration in jury services. Many jurors are not receiving any compensation for the time they expend to report for jury duty, and those who serve on a jury often cannot be paid for their first day of sworn service. For example, San Diego Courts during the final quarter of the fiscal year just past, depleted all funds available to pay jurors.
- Numerous courts cited instances where the criminal justice system is suffering.
  - Lesser criminal violations are occasionally dismissed due to a defendant's right to a speedy trial, where courts must prioritize resources to allow prosecution of serious cases. Petty violators committing petty crimes without fear of prosecution is a real concern in many communities.
  - Prioritizing caseloads restricts operation of traffic courts. For example, San Diego has considered suspending setting traffic cases. Californians view the roads and highways as their own, and would be in great danger of those who would disregard speed and safety laws due to our inability to enforce the law.
  - Arrest warrants and subsequent recalls are delayed, inhibiting prosecution on the one hand, and causing false arrests and higher jail costs on the other.
- Family law courts, their cases lacking the constitutional and statutory priority of criminal cases, will continue to have court operations cut back, creating extended delays in handling dissolution of marriage and child custody mediation, family support determinations where child and spousal support are critical issues, and restraining orders due to domestic violence. In Shasta County a family law judge who works without a break through lunch and into each evening to assure timely issuance of temporary restraining orders and other orders soon will be called upon to sit in criminal cases as well. These societal costs are beyond economic evaluation.
- Collection efforts, which require adequate staffing and automation to generate net revenue for the state and county, face staffing reductions, furloughs, and delayed automation, which will result in revenue reductions followed by further staff reductions. Traffic courts experience similar cutbacks and reduced revenue generation.
- Courts report shortfalls in covering costs of security.
  - San Diego noted that the Marshal's office, which has reduced staff, provides fewer trained officers for court security, cannot provide any perimeter security, and must defer service of criminal warrants to staff civil services which generate revenue.
  - The Modoc County Superior Court and Municipal Court expressed a common concern that further reductions create enhanced risk to the public, judges, and staff, in light of the escalation in the number of volatile incidents in American courtrooms today.
- Over two-thirds of the responses indicated case processing would deteriorate, delaying resolution of cases and issuance of court orders, obviating the effect of fast track operations.

- Mandated reporter and interpreter services costs continue to grow without growth in funding, limiting their use in cases which require such services.
- A reduction in Alternative Dispute Resolution services, due to non-funding of mediators or arbitrators, as well as a shortage of qualified pro bono volunteers, eliminates an alternative to the costs and formalities of trials, resulting in delayed adjudication, which drive wealthy litigants into private courts. Bifurcation of judicial services based so clearly on economic status does not serve the ends of justice.
- Cost savings programs which have start up costs are either delayed or canceled.
  - Automating portions of court operations would enhance service while reducing administrative and communication costs.
- Courts face further reductions in operations commensurate with reductions in county government operations in their locale.
  - In San Bernardino and Ventura Counties, libraries closed to allow courts to stay open
  - In San Diego County, a court facility has standing pools of water in rooms routinely used by staff, and mushrooms growing out of carpets in other rooms, due to facility maintenance cuts.

These examples are troubling and require immediate action. The remaining questions you have asked may reveal what options are available to deal with these problems.

## II. PRESIDING JUDGES/COURT ADMINISTRATORS ISSUES

*Are there statutes or rules of court which, if repealed, would mitigate the adverse consequences of the budget cutbacks on these trial courts?*

*What programs can be suspended, eliminated, or reduced locally and statewide in order to devote resources to the areas most critical to the constitutional operation of the courts?*

The Trial Court Presiding Judges and Court Administrators Standing Advisory Committees were asked to identify (1) statutes or rules for possible amendment or repeal; and (2) programs which might be suspended, eliminated, or reduced in order to devote resources to other critical areas. The Legislature and the Governor can provide the courts with fiscal relief by providing relief from statutory mandates and by enacting legislation which improves court efficiency. A search of the Constitution, Statutes, and Rules revealed approximately 4,000 instances where a statute contained the language "the court shall" or "the clerk shall". A significant number of these mandates are unable to be accomplished due to inadequate resources. This suggests that a review of mandates, given the current fiscal crisis, would be beneficial. Such a review may result in a prioritization of mandates by the Legislature, or in the alternative, a prioritization of funding for mandates.

Through an arduous brainstorming and review session, the committees identified 41 issues for consideration in order to mitigate budget cutbacks. This list of issues has been arranged into six broad areas where efficiency measures and fee increases would result in reduced costs and increased revenues without additional state general funds. These areas include: Court reporting and interpreter issues; Jury system issues; New fee and revenue sources; Record-keeping and retention; Transfer of certain cases out of the court system; and Expedited procedures/enhanced efficiencies.

### *Court Reporting/Interpreter Issues*

Presiding judges and court administrators embrace the position that the trial courts should have the discretion to determine the method of making the official court record. Court reporters are now required in most instances to report the oral proceedings at an approximate annual cost per position of \$60,000 in salary and benefits. The annual statewide cost alone for official and pro tem court reporters is \$93,600,000. Additional costs are incurred by the courts in the production of mandated and court ordered transcripts. By allowing the courts to determine the method of making the official court record, and by permitting the courts to make subsequent copies of transcripts purchased by the courts, substantial savings can be achieved. A list of options appears below:

- Authorize courts to determine the method for making the official court record, including permitting civil litigants to arrange for the services of a court reporter at their own expense.
- Authorize courts to make copies of the original filed court transcript in all cases.
- Require court reporter notes to be on computer disk to save storage space.



- Eliminate or further restrict the requirement for preliminary hearing transcripts.
- Eliminate the requirement for transcripts of change of plea and sentencing proceedings.
- Authorize the use, if appropriate, of a single interpreter for multi-defendant criminal cases.

### *Jury Issues*

Consistent with the information presented at the Senate Judiciary Committee public hearing in Los Angeles on July 27, several issues related to jury reform were identified as possible cost containment measures. Although California is only one of three states that pays its jurors less than \$10 per day, the total annual cost for juror fees and mileage exceeds \$ 19,000,000. In most counties, the \$5 daily fee barely covers the cost of a moderately-priced lunch or parking. The Legislature should consider the elimination (or suspension) of juror compensation, as well as the elimination or limitation of jury trials in certain types of cases to achieve substantial savings. Various options regarding jury issues are listed below:

- Eliminate/suspend the requirement to compensate jurors.
- Eliminate the right to jury trial in misdemeanor cases where the maximum sentence is six months or less, and in certain types of civil cases.
- Reduce the size of juries
- Eliminate the requirement of unanimous verdicts in non-capital cases.
- Consider the use of specialized juries for certain complex cases.
- Reduce the number of, or eliminate, peremptory challenges.
- Conform attorney voir dire in civil cases to that permitted in criminal cases.

### *New Fee/Revenue Sources*

Several new fee or revenue sources were identified during the review process which would aid courts in minimizing the impact of budget cuts. They include:

- Repeal the filing fee exemption for government agencies.
- Authorize an annual filing fee for each year a civil case is in the system.
- Base the probate filing fee on the value of the estate.

- Base the civil filing fee on the amount of the prayer, or on the type of case.
- To minimize fee waivers, authorize a sliding scale fee based on the litigant's ability to pay, with the Judicial Council to establish criteria to determine indigency.
- Establish a filing fee for certain types of juvenile cases, including adoptions of dependent children and the sealing of records.
- Establish a filing fee for opposition papers.

#### *Record-keeping and Retention*

- Guidelines regarding the preservation of records in any medium (including optical, electronic, or magnetic media) according to specified standards and the disposition of the records following imaging currently exist. Implementation of these guidelines will produce ongoing savings realized through a reduction in labor and storage requirements.
- Require traffic citations to be stored and accessible on computer disk.

#### *Transferring Certain Actions Out of the Court System*

A proposal for non-adjudicatory resolution of small claims was submitted. Small claims is labor intensive for both the judiciary and support staff. Approximately 500,000 small claims are filed annually, resulting in approximately 300,000 trials. It is reported that over 30 courts utilize some form of alternative dispute resolution in some small claims cases. A formalized ADR program for small claims matters would require program and policy development in cooperation with bar associations, ADR providers, and small claims advisors. Additional options relative to the transfer of certain actions out of the court system include:

- Move minor traffic infractions out of the court system or handle administratively within the court system.
- Implement mandatory arbitration or mediation for all personal injury cases under \$100,000.
- Eliminate appeals from small claims cases where judgment is under a designated amount (e.g. \$2,500).

#### *Expedited Procedures/Enhanced Administrative Efficiency*

Courts are currently required to utilize county support services for such areas as cleaning and maintenance. If courts are provided the statutory authority to contract for administrative and support services from any contractor, the courts would have the flexibility to choose the most cost

efficient service provider (whether it be the county or private industry). Although data is not currently available to identify actual dollar savings attributable to this change, it is commonly held that savings would be significant.

Other areas of possible legislative change that would improve court efficiency include:

- Reclassification of certain misdemeanors as infractions.
- Authorization of preliminary hearings to be held by written declaration
- Expansion of the economic litigation program to more cases (e.g. increase jurisdictional limit to \$100,000)

*How severe are the impacts of the "Three Strikes" legislation in Los Angeles, do they extend to other counties, and what options are available to address them?*

The onslaught of criminal cases filed under California's Three-Strikes law has dramatically increased caseloads in our criminal courts. Diversion of judicial resources normally dedicated to processing civil cases is the only option available for dealing with this crisis. Courts across the state have felt the impact and the Administrative Office of the Courts is in the process of conducting a statewide survey. At this point the survey is incomplete; however courts in Los Angeles County, hit especially hard by Three-Strikes, has completed their own impact statement as follows:

- 25% to 100% of the civil courts are trying criminal cases, depending upon the district. Branch courts in Lancaster, Long Beach, Pomona, and Torrance have virtually stopped handling civil cases, while courts in Burbank, Compton and Santa Monica handle very few.
- There has been a 31% increase in felony trials from 1994 to 1995. While 2nd and 3rd strike cases were 12 % of the filings from March 1994 to March 1995, they represent 50 % of the inventory of cases pending trial.
- Historically, almost 95 % of felony cases were concluded by guilty plea. To date, approximately 50-60 % of Three-Strike-cases have reached disposition.
- Because defendants are pleading later and more are going to trial, the jails are crowded with defendants awaiting trials. As a result, the Sheriff has released 30,000 misdemeanants back into the community early. Approximately 300 defendants are sent to prison monthly on Three-Strike cases.
- In March of 1995, 43% of the jury trials in the Los Angeles Superior Court were second or third strike cases.

- Compared to 1993, the average felony case adjudication time has increased from 62 to 72 days. The length of the average felony jury trial has increased from 4 days in 1993 to 6 days in 1994.

The Santa Clara courts report similar resource-draining impacts.

- Civil jury trials are being reset to later dates, and some courts have begun suspending the setting of additional civil jury trials.
- Over 300 cases have been reset from Fall 1995 dates to provide judges, courtrooms and staff to deal with three-strike cases.
- The court has been required to increase its use of retired judges to stay afloat.
- One judge sadly noted a wrongful death case in which the grieving children of a father who died in an industrial accident cannot come to closure because they must come back to court again and again, ready to tell their story, only to have the case continued.

### III. TRIAL COURT BUDGET COMMISSION ISSUES

*Can state funding be reallocated from other trial courts to those you find lacking necessary funding, and if so, at what cost?*

This is a most difficult issue, and after careful consideration and sound deliberation this question must be answered with a resounding "no." The trial courts have been funded at a minimal 34% of the TCBC Approved Budget, leaving the remaining 66 % funding responsibility with the counties. There are no statutory or historically based clear lines of funding responsibility nor accountability between the state and counties. The fact that no court can know the contribution level of its county until the late Fall when county budgets are approved makes it impossible to make rational recommendations regarding reallocation of trial court funding money from one court to another. All preliminary indications suggest that the counties will not be able to fund the remaining 66% of trial court budgets, thus leaving courts with insufficient resources to carryout their statutory and constitutional mandates. Absent some form of relief, a disjointed prioritization process will occur at each court.

Another complicating factor is the statutory limitation which limits the TCBC's authority to reallocate a maximum of 15 % of trial court funds from one court's budget to another. In other words, the most that a court can provide or receive pursuant to the reallocation process is 15% of its allocation. Orange and Los Angeles counties are therefore precluded from receiving the total requested amounts due to this cap. Neither the state nor any county is obligated to replace any funds reallocated from a court as a result of the TCBC reallocation process.

Each dollar taken from a court creates a greater shortfall in that court's budget. Considering the shift that would be required to fund Los Angeles County and Orange County courts, this sharing of the burden would benefit no one. In fact, with existing state allocations, each court must undertake its own internal reallocations to cover its most critical operations.

Any reallocation between courts would be a mere stopgap solution for some courts, but would create disasters in courts that lose funds. Delaying the impact of shortfalls until later in the fiscal year or shifting them to smaller, less politically prominent counties whose problems have not been publicized but which exist nonetheless would merely shift the impact to another time or venue. While courts must ask the hard questions of themselves regarding such issues as administrative efficiency and level of coordination, they must not seek their own gain at the loss of another court.

*If the trial courts cannot be funded at the approved budget level, are there particular trial court operations (e.g., court interpreters) for which additional appropriations are necessary to ensure the continued operation of the courts?*

The commission reviewed the existing policies of applying allocated funds for trial court operations. The essence of the existing policy centers on the eleven functional categories used in preparation and review of trial court budgets, while applying Government Code 77003 and California Rule of

Court 810, which define those items considered a part of and qualifying for state trial court funding. Current policy applies funding starting with Function #1, Judicial Officers, and then through subsequent functions in ascending order. This was based on a variety of factors including statutory mandates and traditional duties of state or county funding.

The result of this prioritization in fiscal year 1994/95 was that allocations as applied fully funded the equivalent in each court for Function #1 - Judicial Officers, #2 - Jury Services, #3 - Verbatim Reporting, #4 - Interpreter Services, #5 - Court Collections, and #6 - Alternative Dispute Resolution, and, depending on the particular court, funding through or into some portion of #7 - Court Appointed Counsel, #8 - Court Security, #9 - Court Technology, and #10 - Other Court Costs. Function 11, Indirect County Costs, is viewed as a county funding responsibility category.

This historic approach is not program related, i.e., criminal versus civil, etc., which cross the functional categories. Put differently, criminal cases routinely include expenditures from Functions #1,2,3,4,7,8,9 and 10. Constitutional mandates require criminal prosecution be completed via a short and detailed time line. There is no operational activity that can be dropped, and in fact the priority given to these has driven resources out of other portions of court operations.

A more pragmatic prioritization might be to place some portion of staffing as the second priority, since without adequate staffing, courts cannot operate. For example, the newly arranged priorities might therefore become: #1 - Judicial Officers, #2 - Primary Court Support Staffing, #3 - Jury Services, #4 - Verbatim Reporting, #5 - Interpreter Services, #6 - Court Collections, #7 - Alternative Dispute Resolution, #8 - Court Appointed Counsel, #9 - Court Security, #10 - Court Technology, #11 - Other Court Support, Services and Supplies, and #12 - General and Enhanced County Costs. This topic will be discussed at the next TCBC meeting.

***What allocation schedule do you recommend at this time based on the current funding level and why?***

Due to the recent resolution of the state budget appropriation and the equally short time provided to staff to prepare presentation of the options, the TCBC will meet again on September 11, to review four options for bases of allocation schedules. The TCBC has requested AOC staff to prepare complete spreadsheets and commentary on the following bases:

- Status Quo distribution formula
- Funding each court at the percentage of total state funding to total TCBC budget
- Status quo distribution formula, plus additional funds to the courts in those counties which provide more court-generated revenue to the state than they receive from state trial court funding.

- Funding the courts in each county equally on a function-by-function basis if the funding level increases above the status quo.

The TCBC will adopt an allocation schedule from among those noted at a meeting scheduled for September 11, 1995, for presentation with explanation at the Judicial Council Meeting on September 15, 1995.

*What funding approach do you recommend in order to meet the critical needs of the trial courts?*

Based on the limited time remaining in the current legislative session, it is imperative that we set forth a two-phased approach that will provide the greatest opportunity for success, by first securing the needed efficiency measures and secondly securing fee increases, both of which will provide critical relief to the trial courts. It is recommended that we proceed with the package of efficiency measure items identified in this report to be incorporated into urgency legislation in August of 1995 and carefully lay the groundwork over the next four months to secure fee increases and other revenue generating proposals through urgency legislation to be implemented in January of 1996.

If this approach is acceptable, the AOC can restructure Option 3 of the original AOC Trial Court Funding Proposal (**ATTACHMENT A**) to incorporate tentative agreements reached between the AOC and CSAC (**ATTACHMENT B**), in addition to the efficiency measures identified above.

In addition, the AOC will review fee increase proposals submitted by the Los Angeles Superior Court in conjunction with the list prepared as a result of the August 16th meeting of the Presiding Judges' and Court Administrators' Standing Advisory Committees and the list of AOC proposed fee increases in order to develop a comprehensive list and projected statewide revenue estimates for introduction in January of 1996.

Regardless of the outcome of proposed urgency legislation to enact efficiency measures and increase fees in order to enhance trial court funding, it is imperative that the Judicial Council seek a deficiency appropriation from the state on behalf of the trial courts in order to fund critical trial court programs. The TCBC will submit a specific deficiency appropriation request for Judicial Council approval at the council's October business meeting.

The judiciary has limited choices in allocating its resources for trial court operations, and none of the choices will be simple or painless. We believe the recommendations in this report provide the best available practical alternatives for the near and interim term. Long-term actions must include an increased education for the public and Legislature regarding the dire and immediate impact of inadequate funding and unfunded mandates on the quality of justice and accessibility to the justice system.

*RC*



**JUDICIAL COUNCIL OF CALIFORNIA**  
**Administrative Office of the Courts**  
303 Second Street, South Tower  
San Francisco, California 94107  
(415) 396-9100

December 12, 1995

Ms. Diane Cummins  
Department of Finance  
Assistant Director of Finance  
1145 Capitol Building  
Sacramento, California 95814

RE: Trial Court Funding Realignment Proposal

Dear Ms. Cummins:

As a follow-up to our earlier discussion, I have reduced to writing a concept on how to proceed with state funding on a county by county basis.

The Judicial Council approved Fiscal Year 1996/97 trial court budget, which was presented to the Governor, was based upon careful documentation of trial court needs, focusing primarily on constitutional and statutory mandates. I feel very strongly that the courts must be fully funded in order to comply with those mandates. This concept paper has been prepared by our office as requested, reflecting the increase of fees which have not been raised in a number of years and the redirection of fine and forfeiture revenue and collection responsibility to the counties. In order to manage scarce resources, the courts must be given the statutory authority that would allow courts to manage their resources as outlined below. Given the time frame for response, this concept paper has not been circulated for comment.

The proposal gives the state responsibility for *all* functional budget categories, with the state billing the counties for their full share of the financial responsibility.

**PROPOSAL: Give the state responsibility for all of the functional budget categories, with the state billing the counties for their full share of the financial responsibility:**

1. Define the state and county funding responsibilities for the trial courts:
  - a. Give the state the full responsibility for all trial court functions. Counties remain responsible for providing courts with adequate facilities.



- b. Repeal Government Code §68073 requirement on counties as it relates to all trial court functions, with the exception of the requirement to provide the courts with adequate facilities. Additional funding requests would be submitted to the state instead of counties. The balance of annual cost increases from year to year would be the responsibility of the State.
- c. Maintain the existing level of local judicial benefits for superior and municipal court judges.
- d. Remove Function #5-Collections Enhancement from GC §77003 and CRC 810 (i.e., the definition of court operational costs). This cost becomes solely a county operational cost, unrelated to trial court operational costs.
- e. Provide courts with the statutory authority to contract for administrative and support services from any contractor (i.e., the counties or private contractors).
- f. Provide by statute:
  - 1) Require counties to obtain court signoff on use of courthouse construction funds.
  - 2) Repeal GC 68073 requirement on counties as it relates to all trial court functions, with the exception of the requirement to provide the courts with adequate facilities.
  - 3) Remove maintenance of effort provision on collections by counties.
  - 4) Modify GC 77003 and CRC 810 to remove collections enhancement (function #5) from the definition of trial court operations.
  - 5) Expand allowable uses of the 2% Automation Fund by the trial courts.
  - 6) Require deposit of the original Two Percent (2%) Automation Fund money in the local special revenue fund. Increase the fund by 2% (totaling 4 %) and deposit the new money in the State Trial Court Trust Fund which shall be allocated by the Judicial Council consistent with the priorities of the Judicial Council approved statewide Court Technology Plan. Clarify the intent of the use of moneys from the Automation Fund. Expand the authorized use of these funds to include both the superior and municipal courts. (Revenue neutral proposal)
  - 7) Require deposit of the fees in the Micrographics Automated Recordkeeping Systems (MARS) fund in the local special revenue fund, which shall be distributed to the trial courts proportionate to their contribution for purposes of funding automated recordkeeping systems. Clarify the intent of the use of moneys from the MARS Fund. (Revenue neutral proposal)

2. The state will be responsible for funding all of the trial court functional budget expenses outlined below from state and county contributions.

<b>Total FY 1996/97 Trial Court Budget:</b>	<b>\$ 1.797 billion</b>
<b>Less Judicial Retirement System:</b>	<b>- .055</b>
<b>Less Assigned Judges Program:</b>	<b>- .015</b>
<b>Adjusted Trial Court Budget:</b>	<b><u>\$ 1,727 billion</u></b>
<b>Less State Trial Court Funding (GF &amp; TF)</b>	<b>.593 billion</b>
<b>Less County Contribution (GF)</b>	<b>.874 billion</b>
<b>Difference</b>	<b><u>\$ .260 billion</u></b>
<b>Less new revenue</b>	<b>.091</b>
<b>Less Function #5-Collections Enhancement</b>	<b>.032*</b>
<b>Less Function #11-Indirect Costs</b>	<b>.048**</b>
<b>Balance to be funded by State</b>	<b><u>\$ .089 billion</u></b>

\*Function #5-Collections Enhancement costs (@\$32 million) is removed from the Trial Court Budget and becomes a county responsibility beginning in FY 1996/97.

\*\*Function #11-Indirect Costs (@\$48 million) are to be negotiated locally with the courts having the ultimate decision beginning in FY 1996/97.

#### FUNCTIONAL BUDGET CATEGORIES

<b>#1. Judicial Officers:</b>	<b>\$ .189 billion</b>
<b>#2. Jury Services:</b>	<b>.047</b>
<b>#3. Verbatim Reporting:</b>	<b>.153</b>
<b>#4. Interpreter Services:</b>	<b>.039</b>
<b>#5. Collections Enhancement</b>	<b>.032*</b>
<b>#6. Alt. Dispute Res.:</b>	<b>.037</b>
<b>#7. Ct Apptd Counsel:</b>	<b>.041</b>
<b>#8. Court Security:</b>	<b>.234</b>
<b>#9. Court Technology:</b>	<b>.172</b>
<b>#10. Other Court Costs:</b>	<b>.735</b>
<b>#11. General &amp; Enhanced County Services (including locally funded judicial benefits)</b>	<b><u>+ .048 billion</u></b>
<b>Subtotal:</b>	<b><u>\$1.727 billion</u></b>

3. Return fines and forfeitures from the state to the counties, totaling \$300 million. Modify the local distribution formula, in order to create an incentive for cities and special districts to issue moving traffic citations. Eliminate the maintenance of effort requirement on counties.
4. The state bills the counties for \$1.171 billion for FY 1995/96 and each year thereafter, on a quarterly basis, for deposit in the General Fund. This amount reflects actual expenditures and

would be apportioned to each county based upon past expenditures. The state will be fully responsible for future year funding increases in all functions. Below are the impacts on the state and counties:

**IMPACT ON COUNTY:**

FY 1994/95 Est. Actuals:	FY 1996/97 Jud. Council Request (Less Collections Enhancement Costs):
Local	County Pays
Contribution: \$ .874 billion	Bill to State: \$1.171 billion
State Fines	
& Forf.: + .297 billion	
Subtotal: <u>\$1.171 billion</u>	Subtotal: <u>\$1.171 billion</u>

**IMPACT ON STATE:**

FY 1994/95 Actuals:	FY 1995/96 Jud. Council Request:
General Fund: \$ .208 billion	General Fund \$ .208 billion
	New Revenue .091
	New General Fund + .089 billion
Subtotal: <u>\$ .208 billion</u>	Subtotal: <u>\$ .388 billion</u>
 FY 1994/95 Actuals: <u>\$1.379 billion</u>	 FY 1995/96 Jud. Council Req.: <u>\$1.559 billion</u>

**NOTE: The funding level presumes that Function #5 Collections Enhancement and Function #11 Indirect Costs are not included in the Trial Court Budget.**

**Benefits of proposal for Counties:**

- Results in a fixed obligation by the counties for all years in the future with virtually no change from current year costs.
- Relieves counties of any obligations for future growth in all of the functional budget categories.
- Returns fine and forfeiture revenue to counties increasing incentives to collect revenues.
- Eliminates duplication of budget preparation efforts.
- Clearly defines state and county financial responsibilities.

**Benefits of proposal for State:**

- Increases trial court funding without increased cost to the General Fund.
- Provides adequate funding to provide greater public access to the trial courts.
- Clearly defines state and county financial responsibilities.
- Allows the judiciary to comply with mandates set forth in statutes, such as attaining minimum service levels.
- Permits the state to assume an increasing responsibility on an incremental basis as future growth for state functions are assumed by the state.

5. Restructure trial court revenues to be dedicated to court operations through new fees, redistribution of existing fees and recognition of existing fees, totaling \$132 million, as follows:

**NEW COURT FEES**

Increase civil filing fee from: \$182 to \$185 in Superior Court \$ 80 to \$ 85 in Municipal Court	\$ 4,800,000
Increase filing fee for any notice of motion, or other paper requiring a hearing, or <u>opposition</u> to a motion or paper requiring a hearing, from \$14 to \$40.	20,800,000
Impose a new fee for filing an amended complaint or cross-complaint, or amendment to a complaint or cross-complaint. \$91 in Superior Court \$40 in Superior Court	20,000,000
Recovery of waived filing fees when litigant receives a monetary settlement.	5,500,000
Increase by 50 percent all miscellaneous clerks fees	40,000,000
<b>TOTAL</b>	<b><u>\$ 91,100,000</u></b>

6. Provide for an annual option for each county to either participate in the trial court funding realignment program described above or be fully responsible for the local trial court costs, fully restoring the original provisions of Government Code §68073, prior to AB 2544 modifications.

I would like to meet personally with you and Russell Gould as early as possible to discuss these realignment options in more detail.

Sincerely,

William C. Vickrey  
Executive Director

Attachment

cc: Russell Gould, Director  
Department of Finance