

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
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Report

TO: Members of the Judicial Council

FROM: Stephen Nash, Acting Director, Finance Division, 415-865-7584

DATE: April 12, 2007

SUBJECT: Trial Court Funding Priorities for FY 2007–2008 (Action Required)

Issue Statement

The Judicial Council is required, under rule 10.101(b)(1) of the California Rules of Court, to establish responsible fiscal priorities to enable the judiciary to achieve its goals. This report presents recommendations to the council for funding priorities for the trial courts for fiscal year (FY) 2007–2008.

Recommendation

The Trial Court Budget Working Group (TCBWG) and staff of the Administrative Office of the Courts (AOC) recommend that the Judicial Council take the following actions:

1. Approve the following statewide funding priorities for trial courts as part of the overall statewide State Appropriations Limit (SAL) funding adjustment for FY 2007–2008:
 - Staffing and operating costs for new and transferring facilities to be opened during the period July 1, 2007, through September 30, 2008;
 - Access to justice; and
 - Additional staffing resources for conservatorship requirements.
2. Direct staff to collect information from the trial courts to develop specific proposals and determine proposed allocation levels for these priority areas, work with the TCBWG once the final FY 2007–2008 state appropriations limit (SAL) percentage rate is known, and provide recommendations to the council on what can be accomplished in these priority areas, based on the projected funding to be available through the SAL adjustment.

Rationale for Recommendation

Background

Each year, the Judicial Council approves funding priorities for the trial courts. Beginning with FY 2005–2006, the trial court budget process has involved an annual base budget adjustment based on the year-to-year percentage change in the SAL. The amount of the SAL adjustment is calculated by multiplying the trial court base budget (which currently excludes judicial compensation) by the SAL growth rate. Although the final SAL growth rate is not known until after the May Revision, the Governor’s Budget includes a proposed amount of SAL funding based on an estimated growth rate. Once the final SAL growth rate is determined, the SAL adjustment funding is computed. Funding allocations to the trial courts are made from this funding.

The purpose of designating Judicial Council funding priorities is to set aside funding from the SAL allocation to address specific programs or costs that the council, with input from the TCBWG, presiding judges, court executives, employee organizations, other advisory groups, and the public, determines are priority areas for one-time or ongoing increases that should be addressed on a statewide basis.

For FY 2006–2007, the council approved two trial court funding priorities: self-help and staffing and operating costs for new facilities to be opened or transferred during the period July 1, 2006, through September 30, 2007. Based on input from various constituents, the Legislature adopted the Supplemental Report of the 2006 Budget Act (Supplemental Report Language) that specifies how SAL funds were to be allocated in FY 2006–2007. The Supplemental Report Language, which stated legislative intent but did not impose legal requirements, limited the total amount that could be provided from the SAL adjustment for both of these priorities in FY 2006–2007 to \$5.0 million. Consistent with that spending cap, the Judicial Council subsequently approved a maximum of \$1.3 million in ongoing funding be provided for nonsecurity operating expenses for new trial court facilities and that \$3.7 million in one-time and ongoing funding be provided for self-help services. AOC staff does not know at this time whether the council will face similar limitations or direction regarding the allocation of SAL funding for FY 2007–2008 Judicial Council priorities.

The current projected year-to-year percentage change in the SAL for FY 2007–2008 is 5.36 percent. By comparison, the final SAL percentage rate was 4.96 percent in FY 2006–2007 and 6.64 percent in FY 2005–2006. The SAL rate will be adjusted as part of the May Revision to the Governor’s proposed 2007–2008 budget. If the FY 2007–2008 SAL rate stays at or near the currently projected level, this will result in a higher level of funding available next year to maintain the courts’ existing programs and pay for mandatory cost increases, as well as to fund Judicial Council statewide funding priorities.

In January 2007, AOC staff sought suggestions from a variety of sources on potential trial court funding priorities for FY 2007–2008. These sources included trial court

presiding judges and court executive officers. The courts were also advised of the requirement, pursuant to rule 10.620 of the California Rules of Court, to give notice to interested members of the public that they may send input on trial court funding priorities to the AOC. AOC staff also met with representatives of employee unions to give them an opportunity to discuss and offer suggested priorities. A full list of the potential priorities that were received in response to this outreach is included in the attachment to this report. The list of proposed priorities and staff recommendations was provided for discussion to the TCBWG at its meeting on March 7, 2007. The list of potential priorities includes a column describing the rationale for including (or not including) them as staff and TCBWG-recommended priorities.

After discussion, the working group recommended the following programs as funding priorities for FY 2007–2008:

- Staffing and operating costs for new and transferring facilities to be opened during the period July 1, 2007, through September 30, 2008;
- Access to justice, which would possibly include funding for court self-help, interpreters, and mediation programs; and
- Resources to assist courts in complying with existing statutory requirements related to conservatorships.

After the Judicial Council approves trial court funding priorities for FY 2007–2008, AOC staff will collect data from the courts regarding their funding needs in these areas. The court data will be reviewed by AOC staff and they will prepare recommendations. Once the final FY 2007–2008 SAL percentage rate is known, the TCBWG will meet to discuss the amount of funding that will be available through the SAL funding adjustment and how it should be allocated, based on the SAL template for existing trial court operational needs. The working group will review specific staff recommendations and funding proposals related to these priorities. The working group's recommendations will then be presented to the council at its business meeting in June 2007.

A description of each of the recommended funding priorities follows.

Staffing and operating costs for new and transferring facilities to be opened during the period July 1, 2007, through September 30, 2008

Many courts are currently expanding and renovating existing buildings as well as planning and developing new courthouses in order to provide services more efficiently and safely. As a result of these activities, some courts may need additional funding for operating costs, including staffing, to make these new facilities operational.

This is a continuing Judicial Council funding priority, included in both the current fiscal year and the previous year. The TCBWG and AOC staff believe that this continues to be an area that should be supported as a funding priority, because these costs can be difficult for individual courts to absorb.

Guidelines and criteria have been established over the past two years for reviewing requests for funding in this area that would be used for future requests. The process involves reviewing a requesting court's undesignated reserves in the Trial Court Trust Fund (TCTF) as reported in the Quarterly Financial Statement to determine whether one-time costs can be absorbed. The guidelines provide that allocation of any approved funding for these costs will be made on a reimbursement basis, that is, after actual costs have been incurred. Requests will be reviewed by staff and then recommendations will be made to the TCBWG regarding funding needed for individual courts. Requests for security costs for these facilities will be subject to the council-approved security funding standards and, as in previous years, will be subject to the availability of funds from the SAL funding provided specifically for security, after allocations have been made to the courts for mandatory security cost changes in salary, retirement, and other benefits, at a court's existing service level.

Access to justice

The TCBWG identified three areas for potential funding under the category of Access to Justice. These included: self-help programs, interpreters in nonmandatory cases, and mediation. Staff committed to reviewing needs in these areas and returning to the TCBWG with a more focused proposal. Based on further review of the individual areas, given current interest among some legislators to expand interpreter services in courts likely far beyond the limited level of funding that could be provided as part of a SAL statewide priority, staff recommend focusing the Access to Justice priority funding to continue to address significant funding needs in the area of self-help programs.

Self-Help Programs

Data collected by the AOC indicates that most of the 6 million annual traffic filings involve self-represented litigants; at least half of the estimated 94,500 child custody mediation cases handled by the California courts each year have at least one or more self-represented parents; and in more than 63 percent of child support cases, neither parent has representation. In addition, all of the almost 400,000 annual small claims filings involve self-represented litigants. The establishment by courts of self-help programs and centers assists in broadening and facilitating both access to and understanding of the court process for all persons served by the courts. This practice directly addresses a goal of the Judicial Council's long-term strategic plan—access, fairness, and diversity.

Phase II of the 2005 *Trust and Confidence in the California Courts* survey involved the participation of 15 focus groups of people with direct court experience around the state, interviews of individual stakeholders, and focus groups of judicial officers and court administrators. An area discussed as part of this phase was receiving and seeking information on the courts. One of the findings was that both court users and judicial members in the focus groups overwhelmingly favor more self-help centers inside the courthouse, as well as newsletters and mobile self-help centers in key community locations. Clearly, this is an area that resonates with both the council and the public.

Improving access to the court system through self-help programs and centers can produce benefits for the community as a whole. Benefits include enabling many self-represented litigants to use the court system more efficiently, reducing absences from work, and reducing the amount of time spent in court in handling these cases because litigants will come better prepared.

Creating or expanding existing self-help programs was a Judicial Council priority in FY 2006–2007. In researching the need for the program, courts were surveyed to determine their need for additional self-help funding. Fifty-four of the 58 courts responded, and the responses indicated a need for an additional \$44 million in on-going funding. During the current year, the Council was able to allocate a total of \$8.7 million. Unfortunately, given an overall limit on statewide priorities, the Judicial Council was only able to allocate \$3.7 million to this program as an initial step. For some courts, this came close to meeting their identified need. For others, though, the level of funding allocated was far below the identified need. Having a consistent baseline of services for this program throughout the state is a benefit for both the courts and the public. Staff and the TCBWG believe that providing additional funding to courts to begin creating self-help programs or enhance existing programs should be a Judicial Council priority for the budget year, provided that sufficient funds are available through the SAL percentage change.

Additional staffing resources for conservatorship requirements for courts to meet the requirements of the law prior to enactment of the Omnibus Conservatorship and Guardianship Reform Act of 2006

The Omnibus Conservatorship and Guardianship Reform Act of 2006 (AB 1363, SB 1716, SB 1116, and SB 1550) contains a number of new mandates that will significantly increase the workload of the courts. On passage of the measure, a FY 2007–2008 budget change proposal was submitted to the Governor and is under review by the Legislature. This proposal is intended to address increased court costs resulting from this new workload. The Governor’s Budget proposes funding in the amount of \$17.4 million on a two-year limited term basis to provide resources for the courts to conduct more investigations and hearings related to conservators and guardians. The funding was approved on a two-year limited-term basis by the Department of Finance in recognition of the fact that the AOC had limited data with which to make its estimates of costs. The AOC will have the opportunity to examine the actual workload over the next year or so, and then make a request for permanent funding beginning in FY 2009–2010 to address the actual costs associated with the Omnibus Conservatorship and Guardianship Reform Act of 2006.

While developing cost projections to meet the new requirements included in the Omnibus Act, it appeared that there were resource deficiencies related to fully implementing current legal requirements related to both conservatorships and guardianships. The funding included in the Governor’s Budget has been approved to provide resources to address *only* the new workload resulting from the legislation, not preexisting workload.

The TCBWG and AOC staff are in agreement that providing funds to increase the resources for those courts not meeting the previously existing legal requirements should be a Judicial Council priority. If approved, AOC staff will work to identify estimated funding needs for these courts.

Alternative Actions Considered

Two alternatives were considered by the TCBWG when it met on March 7, 2007. Each is discussed below.

No funding priorities for FY 2007–2008

Staff from one court suggested that the TCBWG recommend no funding priorities to the Judicial Council for FY 2007–2008. This individual indicated that due to the critical issues facing that court's baseline budget, all SAL funding should be applied to the baseline needs of courts and funding priorities be suspended for FY 2007–2008. Other stakeholders have expressed the opinion that SAL funding should not be set aside for statewide priorities, but that nearly all of the SAL funding should be allocated to the courts on a pro rata type basis, as is done with the Inflation & Workforce funding, to be expended as the court determines. AOC staff and members of the TCBWG believe that a limited number of focused priorities should be recommended to the council to provide funding for specific areas that courts might otherwise not receive, and to continue to progress towards the council's strategic goals.

Expand the funding priorities to additional areas

This recommendation would involve adding additional priority areas, beyond those being recommended, which might include:

- Training for mediators and investigators
- Addressing statewide shortfalls in funding for dependency counsel and aligning allocation in this area with expenditures
- Providing funding for interpreters to be used in non-mandated areas and funding for administrative support for interpreters
- Addressing increases in employer costs for retiree medical insurance benefits
- Reviewing the current funding level for asset replacement allocation in relation to staffing needs and update allocations
- Creating assistance program for courts to fund the substantial cost for California Case Management System (CCMS) deployment
- Providing additional funding for waiting rooms for children in family law courts
- Providing additional funding to support homeless courts
- One-time and ongoing funding to support improved record retention, storage, and retrieval.

These areas were not recommended for a number of reasons. Some are issues that will be addressed separately, such as the supplemental funding process to address CCMS funding issues. Current efforts are being made in other areas and staff and TCBWG members

believe that no further action should be taken until those data collection, review and other studies are completed. This is the case with retiree medical costs and court appointed counsel for juvenile dependency. In other areas, funding that is provided to the court through the Inflation & Workforce or Workload Growth & Equity allocations can be used to meet specific court funding needs, such as training for mediators and investigators. The “Staff/TCBWG Comments” column on the attachment provides more information on why the specific proposals are not recommended for Judicial Council priority funding.

Increasing the number of funding priorities would consume more of the SAL funding and, thereby, reduce the amount of SAL funding that would be available for allocation to the courts to address other court needs, such as program expansion or compensation issues. Based on recent experience, it is clear that members of the legislature do not want Judicial Council priorities to consume a large percentage of the SAL funding. Staff and the TCBWG believe that having a limited number of focused priorities, such as those included in the recommendation, will best meet the needs of the trial courts and the council.

Comments From Interested Parties

In developing recommendations for trial court funding priorities, the AOC sought input from trial court presiding judges, court executive officers, representatives from recognized employee bargaining units, the public, and other interested parties. Their suggestions have been included in the attachment to this report.

Implementation Requirements and Costs

Once funding priorities are approved, AOC staff will develop cost information to be presented to the TCBWG for its input and review. Recommendations for allocation of available funding, based on the final SAL growth rate, will be presented to the Judicial Council at its June 29, 2007, business meeting. Any allocations recommended to the council for these funding priorities will be funded from within the FY 2007–2008 SAL allocation.

Attachment

**Comments Received from Interested Parties for FY 2007-2008
Judicial Council Funding Priorities**

Priority Type/Issue	Comments Provided By	Comments	Staff/TCBWG Comments
Administration	Court Employee Representative	A more streamlined administration. The purpose of state trial court funding that combined municipal and county courts was to streamline the administration. It appears to me that we have seen, if anything, an increase in the number of administrators. I would like the legislature to mandate the courts to put more resources into line staff that provide direct services to the public (more clerks, mediators, pro per facilitators, and bench officers) and discourage proliferation at the top. A good start would be to set a time limit on filling line staff vacancies.	This issue should be addressed through court Inflation & Workforce and Workload Growth & Equity allocations.
Language Classes	Judge	Language classes for staff and judges to become bilingual (Spanish).	This issue should be addressed through court Inflation & Workforce and Workload Growth & Equity allocations.
Training	Court Employee Representative	Funding for ongoing training for mediators and investigators is critical, as is the ability to cover for those in training, so that staff can actually be released for the training if and when it is scheduled.	This issue should be addressed through court Inflation & Workforce and Workload Growth & Equity allocations.
Workload	Court Employee Representative	A workload that aims at a forty-hour week. Sufficient funding of positions and the actual filling of funded positions is needed.	This issue should be addressed through court Inflation & Workforce and Workload Growth & Equity allocations.
Courthouse Facilities	Court Staff	Short-term and long-term projects.	Not a SAL funding issue. Facilities funding addressed through a separate appropriation.

New Judgeships	Private Practice Attorney	<p>I am a solo practitioner, and am not quite sure if my type of response was the input you were looking for, but nonetheless, it is a viewpoint that I believe the average attorney in the Coachella Valley (Palm Springs area) shares, or at least has similar concerns over the status of the local trial court. I am currently on a 24-hour "call" for a bench trial here in the Indio Superior Court. I have been on the 24-hour call for over two weeks. The department clerk informed me over two weeks ago that we will likely NOT get called at all, and the trial set over for at least two to three months. There are six other trials that were set for the same day. The department clerk went over the status of the courts here, which is that criminal last day trials are being heard by all civil judges, and that the particular department where my client's trial is set has not tried a civil case in over six months. Only criminal cases have been tried. I understand that some of the cases approaching the five year mark are being sent out to other counties, which is more than difficult for the parties, attorneys, and witnesses. Just the uncertainty of when the case will be tried (despite a trial date) is a very frustrating situation for small firms and solo attorneys, the witnesses, etc. The clients are beside themselves with stress over the trial, much less, stress over being on a 24-hour call! I know it is frustrating for the local bench, and they are doing whatever they can with what they have to work with. Which is exactly the point. We need more judges! I shudder to think of the personal injury plaintiffs that have been injured, are out of work and have families to support, and cannot get to trial, some as late as 4 1/2 years after filing the complaint. And I have watched one judicial officer work very, very hard at the Indio courthouse, bravely laboring under a caseload that has to be astronomical. And an overburdened judge is not a good thing for anyone. So, from my humble viewpoint, we need funds to hire more judges. End of story.</p>	Funding for new judges is not a SAL funding issue.
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New Judgeships in Civil	Private Practice Attorney	Succinctly, I practice in Riverside County in the Indio District. We need more judges to handle civil matters. I have prepared a medical civil jury matter three (3) times for trial at enormous expense, only to be continued for 9 months to a year because of lack of courtroom availability. This is frustrating and expensive for me and devastating for the client. Funds must be allocated for judges and courtroom staff or we are looking at utter chaos.	Funding for new judgeships is not a SAL funding issue.
Supervision	Court Employee Representative	Supervisors need to be competent enough to fill in for line staff when the need arises. Qualifications put forth in the law need to be adhered to by the Court. Legislation regarding qualifications needs to be strengthened. Hiring unqualified supervisors does not support the mediators and diminishes the level of service provided to the public.	This is not a SAL funding issue.
Supervision—Clinical	Court Employee Representative	This means: a Clinician supervisor whom we can turn to for clinical advice and guidance and continuity of service delivery, a clinician who knows about the care and feeding of other clinicians, who can advocate for policies and procedures that protect working clinicians from liability and undue stress, who can assess compassion fatigue and other clinical burn-out syndromes in staff, and who can assess and assist mediation staff with case consultation and training needs.	This does not appear to be a statewide issue.
Negotiated Salary Increase (One-time)	Court Employee Representative	Provide the Orange County Superior Court with a significant one-time salary boost to establish a new baseline for future NSIs. The mechanism that is being used to determine that the Orange County Superior Court is overfunded is off-base, or geared strictly toward standards, without regard to exceptions. The cost of living in Orange County is beginning to parallel that of the San Francisco and Santa Barbara urban/suburban areas. The neighboring counties in San Bernardino and Riverside are taking viable candidates out of the recruiting pool, while also luring away skilled employees. The county's employers, both public and private, are being similarly impacted by a shortage of new workers that is not fully explained by the low unemployment rate. Housing requires approx. 53% of a household's income in Orange County, while	This does not appear to be a statewide issue. It could be addressed through Inflation & Workforce and Workload Growth & Equity funding.

		Riverside and San Bernardino are closer to the national average in the mid-to-high 20s as a percentage of household income. This disparity, combined with the monetary and quality-of-life costs of commuting, is making those lower salaries attractive enough for employees with many years of service in the Orange County Superior Court willing to consider resigning and become re-employed with the courts or other public agencies in Riverside and San Bernardino, or in other states. This drain on the available labor pool in Orange County is projected to continue indefinitely. The Orange County Superior Court is a first-rate employer and needs to have the ability to compete with local cities and special districts, which are more competitive in the labor market and are attracting the same candidates.	
Court-Appointed Dependency Counsel Shortfall	Court Staff	Address statewide trial court shortfalls in funding for dependency counsel.	Staff recommends deferring this item for FY 2007–08 pending data collection and review.
Court-Appointed Counsel for Juvenile Dependency Matters	Court Staff	Align allocation with expenditures.	Staff recommends deferring this item for FY 2007–08 pending data collection and review.
Court Interpreters	Court Staff	Provide funding for interpreters to be used in non-mandated areas; funding for Administrative Support for Interpreters.	This was a Judicial Council priority in FY 2005–06 for interpreter benefits. (\$10.6 M ongoing and \$5.5 M one-time).
Court Interpreters	Court Employee Representative	We are requesting that an increase in funds for interpreter wages be made outside of SAL. The reason for this is the historic underfunding of this program area, the growing demand and the need to expand these services. It has become clear that SAL will simply not provide enough funds for the much needed wage adjustment in the field of court interpreting and we want to work together with the courts and the Judicial Council to find a solution.	This was a Judicial Council priority in FY 2005–06 for interpreter benefits. (\$10.6 M ongoing and \$5.5 M one-time).

New Facilities	Court Staff	Continue to provide funding for costs associated with opening new facilities.	This has been a Judicial Council priority in FY 2005–06 and FY 2006–07.
Mediation—Self Help	Volunteer/Private Mediator	Having mediated many cases as a volunteer and private mediator for the courts, I can attest to the fact that many matters could be resolved if there was a more thorough pre-litigation screening process followed by a requirement of early ADR or a mandated "meet and confer" on the part of parties to discuss the possibility of settlement and the available options to litigation in the courts.. Too often, particularly in pro se matters, the litigants are simply uninformed and have unrealistic expectations of what the courts can do for them. The economics of processing civil litigation is often misunderstood as is the length of time a case may be pending in our court system. Moreover, the procedural requirements and protocol are particularly confusing to civil litigants. As the cost of civil justice increases more prospective litigants will be required to forego legal representation and turn to self-help. A program which educates them in the nuts and bolts of civil litigation and allows them the opportunity to reasonably evaluate the value of their cases and alternate dispute-resolution processes is going to become more and more necessary.	Self help is a Judicial Council priority in FY 2006–07 (\$8.7 M ongoing). There is currently a pilot project in process to address this specific concern.
Self-Help Centers	Court Staff	Baseline budgets should reflect ongoing court need to sustain programs.	Substantial program increases beginning in FY 2006–07 (\$8.7 M ongoing). Courts indicated a large need in current year.
Alignment of Baseline Budgets	Court Staff	Revisit RAS model to ensure underfunded courts are appropriately identified.	This is not a Judicial Council funding priority but is a separate SAL funding issue to be reviewed.
Retiree Medical	Court Staff	Establish a funding priority to address increases in employer expenses for retiree medical insurance benefits.	Defer issue pending statewide review.

Security Funding Shortfall	Court Staff	While not a SAL priority, continue to advocate for full funding of the security standards and associated SB 1396 expenses.	Pending discussion with the Department of Finance and the Legislature regarding full funding of security.
Technology Deployment Funding	Court Staff	The trial courts will incur substantial costs for CCMS deployment. A funding assistance program to assist needy courts is necessary.	Separately addressed through the supplemental funding process.
Asset Replacement Allocation	Court Staff	Review current funding level in relation to staffing needs and update allocations.	Given a focused, limited approach to funding priorities for 2007–08, staff and the TCBWG did not recommend this proposal at this time.
Baseline Funding	Court Staff	Deficiencies in baseline budgets should be addressed before priorities are established.	These recommendations would eliminate statewide priorities from SAL for 2007–08. Staff and TCBWG do not recommend this approach.
Baseline Funding	Court Staff	Given the critical status of the Court's baseline budget, all SAL resources should be applied to the baseline and Judicial Council Priorities should be suspended for FY 2007–2008.	These recommendations would eliminate statewide priorities from SAL for 2007–08. Staff and TCBWG do not recommend this approach.
Children's Waiting Rooms	Judge	Waiting rooms for children in family law courts.	Given a focused, limited approach to funding priorities for 2007–08, staff and the TCBWG did not recommend this proposal at this time.

Homeless Courts	Court Employee Representative	Los Angeles County is going forward with these types of courts and will have one in each supervisorial district. Assuming these courts are going to be a part of the judicial landscape, it might be time to discuss it at the 1/29 meeting on a statewide basis and/or regional basis. What do you think?	Given a focused, limited approach to funding priorities for 2007–08, staff and the TCBWG did not recommend this proposal at this time.
Records Management	Court Staff	One-time and ongoing funding for state-of-the-art record retention, storage and retrieval.	Given a focused, limited approach to funding priorities for 2007–08, staff and the TCBWG did not recommend this proposal at this time.