

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

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report Summary**

TO: Members of the Judicial Council

FROM: Ronald G. Overholt, Chief Deputy Director  
Christine M. Hansen, Director, Finance Division, 415-865-7951  
Stephen Nash, Assistant Director, Finance Division

DATE: June 15, 2005

SUBJECT: Specific Trial Court Budget Allocations for Fiscal Year 2004–2005  
and Fiscal Year 2005–2006 (Action Required)

Issue Statement

The Judicial Council has authority to approve the allocation of funding to the trial courts. This report presents recommendations for several specific trial court allocations, some to occur in the current fiscal year and the rest to occur in fiscal year 2005–2006. Attachment 1 to this report displays the recommended allocations and provides the beginning and adjusted fiscal year 2005–2006 base budget for each court.

Recommendation

Court Appointed Counsel – Family Code section 3150

1. Approve the proposed methodology for funding Family Code section 3150 expenditures in the amount of \$1.152 million for 14 courts from the Court Appointed Counsel baseline budget, on a one-time basis only, in fiscal year 2004–2005, as indicated at column A of Attachment 1.

Court Appointed Counsel – Dependency

2. Approve the use of savings from other statewide reimbursement programs, to the extent available, to fund the shortfall in dependency counsel on a one-time basis once the actual costs for fiscal year 2004–2005 have been determined.

Workers' Compensation

3. Direct that in fiscal year 2005–2006, the ongoing funding received in the Budget Act of 2003 in the amount of \$4.074 million be permanently allocated to each participating court to the extent its fiscal year 2005–2006 program costs exceed its fiscal year 2004–2005 baseline funding, as indicated at column C of Attachment 1.

Workers' Compensation

4. Direct that the \$1.740 million in fiscal year 2003–2004 program savings be allocated on a one-time basis to each participating court with a fiscal year 2005–2006 program deficit, as indicated at column D of Attachment 1.

Workers' Compensation

5. Approve the policy that each participating court's share of claims costs be based upon an exponential ratio of losses and payroll, that the costs of the excessive claim insurance and the loss prevention program be based upon each court's relative percentage of payroll to the total payroll for all the courts in the program, and that the cost of the third party administrator be based upon each court's relative percentage of losses to the total losses for all the courts in the program.

Subordinate Judicial Officer Retirement

6. Approve funding of subordinate judicial officer rate driven retirement changes in the amount of \$762,972 in fiscal year 2005–2006, through the redirection, on a one-time basis, of reimbursable jury program funding as indicated at column E of Attachment 1. In future years, it is anticipated that either judicial officer compensation will be included in the State Appropriations Limit process or a budget change proposal will be submitted to the state Department of Finance to request funding.

\$2.5 Million Consolidated Administration Reduction

7. Approve the permanent allocation to the courts of the \$2.5 million consolidated administration reduction in the amounts allocated in fiscal year 2004–2005, as indicated at column F of Attachment 1.

Restoration of One-Time Unallocated Reduction

8. Approve full restoration of the fiscal year 2004–2005 one-time reduction funding to the courts at the same level at which the funding was reduced, as displayed at column G of Attachment 1. If additional adverse changes are made to the overall trial court budget beyond what has been approved by the Joint Legislative Budget Conference Committee, this item will need to be reconsidered and a new recommendation may be presented to the council.

Rationale for Recommendation

Recommendation 1. Court Appointed Counsel – Family Code section 3150. Some courts had an expectation of continuing to receive funding to specifically address their Family Code section 3150 cases, provided they had a surplus of dependency funds. Court staff were concerned that they were given insufficient advance notice that funds previously allocated for FC 3150 cases would be directed for dependency costs. With the adoption of the recommended policy, courts will be provided time to transition to the new funding approach.

Recommendation 2. Court Appointed Counsel – Dependency. To the extent that these mandated costs are not fully reimbursed to courts, courts will have to redirect resources that would otherwise be available to support other important programs or operations.

Recommendation 3 and 4. Workers' Compensation. The program funding recommendation allocates previously undistributed program funding to trial courts with a fiscal year 2005–2006 program deficit based upon that court's relative financial need while allowing courts with lower 2005–2006 program costs to keep the savings generated by their business decisions and performance. This approach allows funding to be allocated more evenly among the courts than the alternative approach, which would distribute the funds based upon the relative size of payroll.

Recommendation 5. Workers' Compensation. The cost structure recommendation allocates costs to the participating courts based upon each court's exposure to risk (payroll) and loss experience. Such a cost structure provides incentives to control costs by linking a participating court's costs with its appropriate cost driver. The use of an exponential ratio for calculating a court's share of the claims costs provides the smaller courts with some incentive to control costs without placing too much emphasis on losses since such courts do not have sufficient economies of scale to mitigate a particularly poor year of losses.

Recommendation 6. Subordinate Judicial Officers Retirement. It is believed that this recommendation is appropriate because funding for increased retirement costs for other trial court employees is provided through the new budget process. However, because subordinate judicial officer compensation costs are specifically excluded from the State Appropriations Limit adjustment funding process, courts would have to absorb these cost increases through redirection.

Recommendation 7. \$2.5 Million Consolidated Administration Reduction. This will be the third year that courts will experience a reduction for this purpose. Each court will share in the reduction and the actual amount will be the same for each court as it was last year. This will ensure that courts are not surprised with changes in the amount of reduction that must be accommodated within their operations. This approach also ensures that courts have an incentive to achieve cost reductions and efficiencies without being "punished" by having to absorb a greater share of the reduction in order to capture the savings.

Recommendation 8. Restoration of One-Time Unallocated Reduction. The proposed recommendation would restore the unallocated reduction to all courts on the same level as which it was taken from them. The one-time reductions were applied to the courts using a methodology that looked at a variety of factors including: adjusted base funding, case weights, clustering of courts by number of judicial position equivalents, computing of an allocation per weighted filing, and setting of reduction levels. Ultimately, the methodology identified courts that were under-resourced. These courts experienced less severe reductions. The State Appropriations Limit allocation process, which will be presented to the Judicial Council at its next meeting, will provide funding to those courts

that are determined by the Resource Allocation Study model to be under-resourced. Because another method will exist to provide funds to benefit those courts that are experiencing high workload growth compared to their funding and staffing, or are facing other equity funding issues, staff and the Trial Court Budget Working Group believed that each court should have their portion of the \$27.4 million unallocated reduction funding restored beginning in fiscal year 2005–2006.

#### Alternative Actions Considered

Recommendation 1. Court Appointed Counsel – Family Code section 3150. An alternative considered was to only fund dependency case costs and no longer provide funds to the courts for FC 3150 cases, effective in the current fiscal year, providing courts little advanced notice of the changed policy.

Recommendation 2. Court Appointed Counsel – Dependency. Other than requiring courts to absorb these costs within their operating budgets, another alternative would have been to partially fund the projected shortfall by not providing funding to courts for FC 3150 cases. Staff and the Trial Court Budget Working Group believed that it was important to provide that funding for one more year to assist those courts that have an expectation of receiving some funding in that area.

Recommendation 3 and 4. Workers' Compensation. The working group also considered an alternative funding structure which would have redirected the program savings from individual participating courts to participating courts with a program deficit. The savings in addition to the previously undistributed program funding would have been allocated to the participating courts with a program deficit based upon payroll. This alternative was not selected since it eliminates the fiscal incentive to participate in the program, as cost redirections and savings achieved at one court would not benefit that court. This could discourage voluntary participation in future statewide program efforts.

Recommendation 5. Workers' Compensation. The cost structure recommendation allocates costs to the participating courts based upon each court's exposure to risk (payroll) and loss experience. Such a cost structure provides incentives to control costs by linking a participating court's costs with its appropriate cost driver. The use of an exponential ratio for calculating a court's share of the claims costs provides the smaller courts with some incentive to control costs without placing too much emphasis on losses since such courts do not have sufficient economies of scale to mitigate a particularly poor year of losses.

Recommendation 6. Subordinate Judicial Officers Retirement. None. No viable alternatives have been identified. If this recommendation is not approved, courts will need to absorb these cost increases through redirection of existing resources.

Recommendation 7. \$2.5 Million Consolidated Administration Reduction. One alternative considered was to try to determine how much each court's operating costs were reduced based on the savings that were made possible through the implementation

of statewide contracts and other types of cost-savings efforts. This would have been extremely difficult to determine and, was not, consequently, recommended.

Recommendation 8. Restoration of One-Time Unallocated Reduction. There is still a possibility that this recommendation may need to be changed, if the final fiscal year 2005–2006 budget contains additional reductions to the Trial Court Trust Fund beyond what has currently been approved by the Joint Legislative Budget Conference Committee. Should this be the case, a future recommendation may be made to utilize part of the funding to address additional reductions, on a one-time or ongoing basis.

#### Comments from Interested Parties

The Trial Court Budget Working Group was brought together on several occasions during fiscal year 2004–2005 to provide assistance in the development of the fiscal year 2005–2006 allocation process, provide subject matter expertise, and assist in the development of recommendations.

#### Implementation Requirements and Costs

There are no additional funds needed to implement these recommendations.

Attachment

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Issue Statement

The Judicial Council has authority to approve the allocation of funding to the trial courts. This report presents recommendations for several specific trial court allocations, some to occur in the current fiscal year and the rest to occur in fiscal year 2005–2006. Attachment 1 to this report displays the recommended allocations and provides the beginning and adjusted fiscal year 2005–2006 base budget for each court.

Background and Previous Council Actions

At its February 27, 2004 meeting, the Judicial Council approved the following statewide budget priorities for trial courts for fiscal year 2005–2006 without a funding cap:

- Trial Court Staff Negotiated Salary Increases (NSIs) and Benefits;
- Trial Court Staff Retirement;
- Trial Court Workers' Compensation Program Cost Increases;
- Security NSIs, Retirement, and Other Benefits;
- Increased Charges for County Provided Services;
- Court Interpreters' Workload Growth;
- Operating Expenses for New Trial Court Facilities; and
- Court Appointed Counsel.

Staff were also directed to review erosion of base budget and equalization of funding issues for the trial courts and the impact these have had on ongoing operations, and to develop a funding proposal if it is determined to be appropriate.

A fiscal year 2005–2006 trial court budget development package was sent to the courts in April 2004. It included Budget Change Information (BCI) forms seeking court cost information in the following areas:

- Trial Court Staff NSIs and Benefits;
- Trial Court Staff Retirement;

- Trial Court Workers' Compensation Program Cost Increases;
- Security NSIs, Retirement, and Other Benefits; and
- Increased Charges for County Provided Services.

Courts submitted the requested forms to the AOC staff at the end of May at which point staff began analyzing them.

Program staff planned to develop projected fiscal year 2005–2006 court appointed counsel funding needs by reviewing current year actual costs and projected increases. Equity funding issues among the courts were to be addressed through application of the Resource Allocation Model being developed by the AOC's Office of Court Research.

In August 2004, staff presented a trial court budget request report to the Judicial Council. It explained that trailer legislation to the Budget Act of 2004 (Senate Bill 1102) amended Government Code section 77202(a) to significantly change the manner in which trial court funding increases would be computed and proposed beginning in fiscal year 2005–2006. The legislation specified that a base funding adjustment for operating costs shall be included that is computed based upon the year-to-year percentage change in the annual State Appropriations Limit (SAL). In addition to that adjustment, non-discretionary costs driven by law or county government that exceed the annual State Appropriation Limit and other adjustments required to accommodate other operational and programmatic changes are to be separately identified and justified through the annual budget process.

In August 2004, after numerous discussions with Legislative and state Department of Finance (DOF) staff to discuss the implementation of the new budget process, it was determined that the majority of increased funding needs would be accommodated within the SAL adjustment. DOF staff indicated that, due to existing underfunding of various mandatory trial court costs, they would consider additional budget change proposals (BCPs) for fiscal year 2005–2006 only to adjust the trial court base budget so that as of June 30, 2005, (or whenever the Budget Act of 2005 is enacted) the base would reflect an appropriate level necessary to support court operations.

It was acknowledged at that time that the implementation of the SAL adjustment would have an impact on the trial court budget process. Staff would continue to work with the Trial Court Budget Working Group to develop recommendations to the Judicial Council for budget priorities each year at its February meeting, but it would be with the understanding that any requests that are not legislative mandates may have to be accommodated within the funding provided by the SAL adjustment. At that time, it was indicated that staff would work with the courts to estimate funding needs and update them through the Governor's May Revision, when a revised SAL adjustment is released. During the interim, staff would develop options for allocating the estimated funding to be provided based upon the SAL formula and present allocation options to the council during the summer of 2005.

Based on the language in Government Code section 77202(a), it was determined that the following program areas that were approved as budget priorities by the council for fiscal year 2005–2006, would fall within the SAL funding methodology:

- Trial Court Staff NSIs and Benefits;
- Increased Costs for County Provided Services;
- Trial Court Workers' Compensation Cost Increases;
- Court Appointed Counsel; and
- Operating Costs for New Facilities.

In addition, all, or at least a portion of cost increases driven by county government (Trial Court Staff Retirement and Security NSIs, Retirement, and Other Benefits) would also fall within the SAL increase. Staff would compile the adjustments courts indicate they will experience in these areas for fiscal year 2005–2006 and, once the SAL adjustment rate was known, determine how the approved priorities, including those costs driven by county government, could be accommodated within the SAL increase.

Staff presented recommendations based upon this approach to the council at its August 27, 2004 meeting along with another that directed staff to develop a fall budget package with supporting schedules, to be updated in the spring, which would apply the estimated SAL adjustment rate for the following fiscal year provided by DOF staff to overall trial court base funding to determine the annual SAL allocation, consistent with the provisions of Government Code section 77202. Staff would submit this package to the DOF, and, subsequently, to the Legislature. The council approved these recommendations.

In conformance with the Judicial Council's directives to obtain additional funding to address mandatory fiscal year 2004–2005 costs, and to increase the base budget before allocation of the new SAL methodology, the AOC submitted a BCP in September 2004. The BCP requested additional funding for staff salary and benefit costs, security salary and benefit costs, and increased costs for county provided services. New funding for these items was proposed as part of the 2005–2006 Governor's Budget. In addition, with regard to the current year portion of these funding needs; funding for the court salary and benefits increases was provided through an Executive Order processed in accordance with Provision 8 of the trial court funding item of appropriation.

With regard to the other program areas in which the council directed the AOC to take action, funding for security salary and benefits and increased costs of county provided services are presently pending in statewide deficiency legislation. The AOC also sought sponsorship for a judgeship bill to obtain authority and funding for additional superior court judgeships and supporting staff and operating expenses and equipment over the next three years beginning in fiscal year 2005–2006. Senate Bill 56 is currently pending in the legislature.

Another program area in which the AOC and DOF identified that additional funding would be needed was Court Interpreters – specifically the need to address potential new benefit costs for Court Interpreters that would convert to employment status as of July 1, 2005. In the past, as contractors, court interpreters have not received any type of benefits

from the courts. In the previous fiscal year, funding was received to pay for only the legally required employment benefits for the newly established court interpreter pro-tempore positions, such as social security and Medicare. Bargaining is currently underway in the four interpreter regions and full benefits are an essential component of the negotiations. To partially address this need, \$5.5 million in new ongoing funding was provided to be allocated to the interpreters beginning in fiscal year 2005–2006. The council authorized allocation of these funds in fiscal year 2005–2006 at its February 18, 2005 meeting.

At the April 15, 2005 Judicial Council meeting, staff presented a methodology and template to be used for allocating the new funding to be provided based on the SAL adjustment. The council also delegated authority to the Administrative Director of the Courts to make amendments to the SAL allocation process and template when technical corrections are necessary. The purpose of the methodology and template were to ensure distribution to courts of new monies to address mandated costs in a uniform and equitable manner, provide for increases and adjustments in funding for reimbursable cost areas, provide for Judicial Council priorities, allocate discretionary funds for the courts to use to address operational needs, and provide a means of addressing funding needs for areas that have not been priorities in the past, including under-resourced courts and courts with growing workloads due to population increases.

Staff have met with the Trial Court Budget Working Group several times over the past few months, including meetings on May 5 and June 2, to seek their advice on allocation issues in specific program areas and in the development of the SAL allocation process. They have provided their input on the recommendations presented in this report.

In addition to the Trial Court Budget Working Group discussions, over the past several weeks, AOC staff and three members of the Trial Court Budget Working Group have met with legislative staff and representatives of court employee organizations to discuss and respond to questions about the allocation of the State Appropriations Limit adjustment process and template. Representatives of court employee organizations expressed concern that the process and template were too complicated and would be difficult to convey to their constituents. They also expressed the desire that only one sum of money be allocated to each court (preferably based upon the entire SAL factor), that the percentage increase in each court's budget be the same, that there would be no funding for statewide priorities from the SAL adjustment monies, that no restrictions be attached to any of the allocations, and that workers' compensation funding for the Judicial Branch Workers' Compensation Program not be addressed as a separate allocation. After several meetings, AOC staff and representatives of court employee organizations reached conceptual agreement on changes to the Allocation Methodology and Template, for fiscal year 2005-2006. The changes meet several shared objectives, including that of simplicity, while preserving the overall objectives of the methodology approved by the Judicial Council. These changes are consistent with the process discussed with the Trial Court Budget Working Group at their last meeting on June 2, 2005.

On Friday, June 10, a conference call of the Executive and Planning Committee of the Judicial Council was held to discuss the process and review the revised summary template. The committee approved the process on behalf of the Judicial Council, subject to ratification by the entire council.

Also on June 10, the Joint Legislative Budget Conference Committee took action on the judicial branch budget. The actions that will affect the trial courts include:

- Approval of \$130.7 million in new funding as part of the SAL adjustment. This amount represents a reduction of \$4.1 million from the amount proposed by the Department of Finance, based upon the approved SAL formula.
- The base adjustment to address staff salary and benefit cost increases, the cost of interpreter benefits, county charges, and security was approved at \$92.6 million. This funding represents the ongoing funding for current year funding already provided to trial courts through the Provision 8 process and additional funding contained in pending deficiency legislation.
- Budget bill language which earmarks up to \$5 million of existing funds to be used to support self-help centers.
- Approval of the restoration of \$55 million of the fiscal year 2004–2005 one-time reduction (of which only \$27.4 million in reductions was directly allocated to trial courts). This will restore ongoing baseline allocation funding to each court.
- Approval of a compromise negotiated between the AOC and the California State Association of Counties on the issues of Undesignated Fees and the costs for Forensic Evaluations.

Staff originally planned to present recommendations, with the input of the Trial Court Budget Working Group, on the following items to the Judicial Council at its June 24, 2005 meeting: allocation of the SAL funding, including funding to address the fiscal year 2005–2006 council priorities (mandatory security increases, court staff retirement increases, operating costs for new facilities, workers' compensation, court appointed counsel, court interpreters, and equity of funding issues); the ongoing security and consolidated administration reductions; and trial court reimbursement and local assistance funding. However, because the state budget has not yet been approved and because it is still possible that the judicial branch budget may be further adjusted before final approval by the legislature and enactment by the Governor, there is too much uncertainty to be able to present reliable recommendations for allocations at this point. In addition, various fiscal year 2005–2006 funding needs including staff retirement, security, and operating costs for new facilities, are still under development. Final determination of security funding needs is also required in order to update the security funding standards so that the permanent \$22 million security reduction can be allocated appropriately. Various policy issues became apparent while staff was reviewing the security and new facilities requests. The Trial Court Budget Working Group and AOC staff believe that the Court Security Working Group should consider these issues before recommendations can be brought to the council.

Also, the Office of Court Research has been working to update the filings information upon which the Resource Allocation Study (RAS) model is based. Until now, the model has utilized only filings data from fiscal year 2000–2001 through 2002–2003. Staff are currently reviewing filings data from fiscal year 2003–2004 to determine whether this information can be used. If so, this could impact the results. In addition, the security baseline must be determined before the RAS model can be utilized to determine which courts are under-resourced, and therefore require additional funding. For these reasons, staff are not yet able to finalize recommendations for the entire SAL allocation and the security reduction; and believe that it would be premature to take action on these items. It is our intention, consequently, to present these overall allocation recommendations to the council at the first meeting after the fiscal year 2005–2006 budget is enacted.

There are, though, certain specific allocation recommendations that are not dependent on final approval of the budget, and on the SAL funding and are unlikely to be effected by additional legislative action or additional cost information, that can be presented and considered by the Judicial Council at this time. We believe, therefore, that these allocations can be made by the council now. These concern the following matters:

- Fiscal year 2004–2005 Family Code 3150 allocations;
- Fiscal year 2004–2005 Dependency allocations;
- Fiscal year 2005–2006 one-time and ongoing Workers’ Compensation allocations;
- Fiscal year 2005–2006 allocation for Subordinate Judicial Officers Retirement Cost Increases;
- Permanent allocation of the \$2.5 million Consolidated Administration Reduction; and
- Restoration of the fiscal year 2004–2005 \$27.4 million one-time Unallocated Reduction.

#### Fiscal Year 2004–2005 Allocation Items

##### *Court Appointed Counsel - Family Code section 3150*

Family Code section 3150 funding, to address the costs of court appointed counsel for minors in custody or visitation cases, has historically been aggregated with dependency counsel funding under the court appointed counsel (CAC) baseline. The total court appointed counsel baseline is \$85.3 million. Dependency counsel costs are a statutory mandate (Welfare and Institutions Code section 317), while FC 3150 cases are discretionary to courts. A few years ago, the Judicial Council approved making the court appointed counsel program a reimbursement program, similar to the funding approach for the Interpreter program and Jury costs. Under this process, the courts are required to submit court appointed counsel claims to the AOC for review and approval for reimbursement.

In October 2002, the trial courts were surveyed and provided an opportunity to identify a portion of their respective CAC baseline budgets to be used to address FC 3150 costs. Based on that survey and subsequent analysis, 18 courts received allocations in fiscal year 2003–2004 from their CAC baseline to specifically address their FC 3150 costs. These courts expected to continue to receive this funding, assuming that they continued

to have a surplus of dependency funding. However, in order to address the growing costs of dependency counsel statewide, and given that there is now insufficient funding available to fully reimburse all courts for dependency counsel costs, staff have recommended reallocating funding to address dependency costs, which are mandated. In an attempt to address these allocation issues related to CAC funding, AOC program staff and a subcommittee of the Trial Court Budget Working Group were convened. The group reviewed court dependency expenditures from the courts' fiscal year 2003–2004 Quarterly Financial Statements (QFS), the most recent full year expenditures available. Based upon this review, the group developed a proposed methodology that overall would continue a level of funding for FC 3150 cases in fiscal year 2004–2005, but, beginning in 2005–2006, this funding would be directed to address dependency costs. The plan recommended by the working group includes the following components:

- a) For each court, determine the difference between the fiscal year 2003–2004 CAC baseline and actual fiscal year 2003–2004 dependency counsel expenditures.
- b) Identify those courts that have fiscal year 2003–2004 dependency expenditures that are less than their total CAC baseline, and that also had FC 3150 expenditures reported in the QFS in fiscal year 2003–2004.
- c) Allocate to those courts meeting the criteria in step 2 either the amount of expenditures for FC 3150 cases in fiscal year 2003–2004 or the amount determined in step 1, whichever is less.
- d) Apply the proposed methodology on a one-time basis only in fiscal year 2004–2005.

Application of the proposed methodology results in the identification of 14 courts that meet the criteria and would receive a total of \$1.152 million from the statewide CAC baseline in 2004–2005. This proposed methodology was presented to the full Trial Court Budget Working Group on June 2, 2005.

#### Recommendation

AOC staff and the Trial Court Budget Working Group recommend that the Judicial Council:

1. Approve the proposed methodology for funding Family Code section 3150 expenditures in the amount of \$1.152 million for 14 courts from the Court Appointed Counsel baseline budget, on a one-time basis only, in fiscal year 2004–2005, as indicated at column A of Attachment 1.

#### Rationale for the Recommendation

The recommendation is made because some courts had an expectation of continuing to receive funding to specifically address their FC 3150 cases, provided they had a surplus of dependency funds. Court staff were concerned that they were given insufficient advance notice that funds previously allocated for FC 3150 cases would be directed for dependency costs. With the adoption of the recommended policy, courts will be provided time to transition to the new funding approach.

### Alternatives Considered

An alternative considered was to only fund dependency case costs and no longer provide funds to the courts for FC 3150 cases, effective in the current fiscal year, providing courts little advanced notice of the changed policy.

#### *Court Appointed Counsel - Dependency*

When the \$1.152 million proposed allocation from the CAC baseline for FC 3150 cases is taken into consideration, there is a projected current year shortfall in funding for dependency cases totaling approximately \$4.738 million. These are costs that courts must pay and for which they have received full reimbursement in many, but not all, prior fiscal years.

AOC staff and the Trial Court Budget Working Group recommend that the Judicial Council:

2. Approve the use of savings from other statewide reimbursement programs, to the extent available, to fund the shortfall in dependency counsel on a one-time basis once the actual costs for fiscal year 2004–2005 have been determined.

### Rationale for Recommendation

To the extent that these mandated costs are not fully reimbursed to courts, courts will have to redirect resources that would otherwise be available to support other important programs or operations.

### Alternative Actions Considered

Other than requiring courts to absorb these costs within their operating budgets, another alternative would have been to partially fund the projected shortfall by not providing funding to courts for FC 3150 cases. As mentioned above, staff and the Trial Court Working Group believed that it was important to provide that funding for one more year to assist those courts that have an expectation of receiving some funding in that area.

### Fiscal Year 2005–2006 Allocation Items

#### *Workers' Compensation*

In fiscal year 2005–2006, 54 trial courts will participate in the Judicial Branch Workers' Compensation Program (JBWCP). Three of the remaining four trial courts participate in program coverage through their respective counties and one trial court purchases private insurance.

In fiscal year 2005–2006, total program costs for courts participating in the JBWCP will be approximately \$22.651 million. This amount includes program claims costs of approximately \$18.246 million, excessive claim insurance, third party claims administration, and loss prevention program costs of \$4.405 million. The fiscal year 2004–2005 baseline funding for individual courts participating in the JBWCP is \$12.866 million, resulting in a \$9.785 million shortfall.

An additional \$4.074 million is available in the JBWCP on a statewide basis, which was received in the Budget Act of 2003, but which has not yet been allocated to individual

courts for JBWCP cost increases. The Trial Court Budget Working Group recommends ongoing funding in the amount of \$4.074 million be permanently allocated to each participating court to the extent its projected fiscal year 2005–2006 program costs exceed its fiscal year 2004–2005 baseline funding. In addition, the working group recommends that \$1.740 million in fiscal year 2003–2004 workers’ compensation program savings be allocated on a one-time basis to each participating court with a fiscal year 2005–2006 program deficit. Approval of these funding recommendations results in total funding available to participating courts of \$18.68 million and results in a remaining program deficit of \$3.971 million for 42 of the 54 participating trial courts, which will need to be funded through each participating court’s new funding from the SAL adjustment process or existing base budget resources.

The Trial Court Budget Working Group further recommends that each participating court’s share of the claims costs be based upon an exponential ratio of losses and payroll. For example, the claims cost ratio for the Superior Court of Orange County, the court with the highest salary costs in the program, is based 80.0 percent upon losses and 20.0 percent upon payroll. The claims cost ratio for the court with the lowest salary costs in the program is based 12.1 percent upon losses and 87.9 percent upon payroll. The ratio is designed to mitigate the impact of a few large claims upon the smaller courts while also providing some incentive to control losses in the future.

The Trial Court Budget Working Group also recommends that the costs of the excessive claim insurance and the loss prevention program be based upon each court’s relative percentage of payroll to the total payroll for all the courts in the program. Finally, it is recommended that the cost of the third party administrator be based upon each court’s relative percentage of losses to the total losses for all the courts in the program. For each non-claims cost, the allocation is based upon the cost driver that exhibits the best correlation to the cost.

In summary, AOC staff and the Trial Court Budget Working Group recommend that the Judicial Council:

3. Direct that in fiscal year 2005–2006, the ongoing funding received in the Budget Act of 2003 in the amount of \$4.074 million be permanently allocated to each participating court to the extent its fiscal year 2005–2006 program costs exceed its fiscal year 2004–2005 baseline funding, as indicated at column C of Attachment 1;
4. Direct that the \$1.740 million in fiscal year 2003–2004 program savings be allocated on a one-time basis to each participating court with a fiscal year 2005–2006 program deficit, as indicated at column D of Attachment 1; and
5. Approve the policy that each participating court’s share of claims costs be based upon an exponential ratio of losses and payroll, that the costs of the excessive claim insurance and the loss prevention program be based upon each court’s relative percentage of payroll to the total payroll for all the courts in the program, and that the cost of the third party administrator be based upon each court’s relative percentage of losses to the total losses for all the courts in the program.

### Rationale for Recommendation

The program funding recommendation allocates previously undistributed program funding to trial courts with a fiscal year 2005–2006 program deficit based upon that court's relative financial need while allowing courts with lower 2005–2006 program costs to keep the savings generated by their business decisions and performance. This approach allows funding to be allocated more evenly among the courts than the alternative approach, which would distribute the funds based upon the relative size of payroll.

The cost structure recommendation allocates costs to the participating courts based upon each court's exposure to risk (payroll) and loss experience. Such a cost structure provides incentives to control costs by linking a participating court's costs with its appropriate cost driver. The use of an exponential ratio for calculating a court's share of the claims costs provides the smaller courts with some incentive to control costs without placing too much emphasis on losses since such courts do not have sufficient economies of scale to mitigate a particularly poor year of losses.

### Alternative Actions Considered

The working group also considered an alternative funding structure which would have redirected the program savings from individual participating courts to participating courts with a program deficit. The savings in addition to the previously undistributed program funding would have been allocated to the participating courts with a program deficit based upon payroll. This alternative was not selected since it eliminates the fiscal incentive to participate in the program, as cost redirections and savings achieved at one court would not benefit that court. This could discourage voluntary participation in future statewide program efforts.

Alternative cost structures were identified to compute each court's share of the claims costs. A straight-line ratio as opposed to an exponential ratio would allocate a portion of the claims costs based upon a court's percentage of payroll relative to the total payroll of all participating courts. However, such an approach does not provide an effective incentive for smaller courts to control losses. For example, one very small court would have only 0.3% (less than half of one percent) of its claims costs based on losses. Various exponential factors were also considered, but the factor selected in the recommended cost structure resulted in a balance between offering some incentive to small courts to control costs versus overly disadvantaging these courts.

### *Subordinate Judicial Officer Retirement Allocation*

Retirement changes for subordinate judicial officers (SJOs) are linked to county employee retirement systems, rather than Judicial Retirement Systems I and II, which handle superior court judge retirement changes. Future court staff retirement will be funded through the SAL adjustment, beginning in fiscal year 2005–2006, but judicial officer compensation, including that for SJOs, is specifically excluded from the SAL adjustment process (Govt. Code section 77202(a)(1)). Therefore, this leaves a gap in funding for changes in retirement costs associated with SJOs. An option to address this issue would be to amend existing law to include SJO compensation in the SAL

adjustment formula. This would, however, not address the unfunded cost increases in fiscal year 2005–2006.

In order to determine the size of this problem, AOC staff contacted the trial courts to seek information regarding the cost of rate driven retirement changes for SJOs in fiscal year 2005–2006. Based upon this information, the projected need for the budget year is \$762,972, with an annualized amount of \$768,435 in fiscal year 2006–2007. In one medium sized court, the fiscal year 2005–2006 employer retirement contribution rate for two of the retirement plan categories will be less than in fiscal year 2004–2005. In accordance with previously established policy, an adjustment will be made to the court's allocation. Overall, based upon current projections, it appears that there is sufficient savings available from other statewide reimbursement program areas that could be utilized to address these costs on a one-time basis in fiscal year 2005–2006.

AOC staff and the Trial Court Budget Working Group recommend that the Judicial Council:

6. Approve funding of subordinate judicial officer rate driven retirement changes in the amount of \$762,972 in fiscal year 2005–2006, through the redirection, on a one-time basis, of reimbursable jury program funding as indicated at column E of Attachment 1. In future years, it is anticipated that either judicial officer compensation will be included in the State Appropriations Limit process or a Budget Change Proposal will be submitted to the state Department of Finance to request funding.

#### Rationale for Recommendation

AOC staff and the Trial Court Budget Working Group believe that this recommendation is appropriate because funding for increased retirement costs for other trial court employees is provided through the new budget process. However, because SJO compensation costs are specifically excluded from the SAL adjustment funding process, courts would have to absorb these cost increases through redirection.

#### Alternative Actions Considered

None. No viable alternatives have been identified. If this recommendation is not approved, courts will need to absorb these cost increases through redirection of existing resources.

#### *\$2.5 Million Consolidated Administration Reduction*

The Budget Act of 2003 (Stats. 2003, ch. 157) included an ongoing \$2.5 million reduction in the Trial Court Trust Fund that assumes that trial courts will implement changes through consolidation of administrative services that will generate sufficient savings to offset the cost reduction. In fiscal year 2003–2004, the Judicial Council approved, on an interim basis, a reduction of \$762,000, prorated to all courts. The total \$2.5 million reduction was offset by one-time savings. Meanwhile, the Rural Court Judges Working Group on Administrative and Operational Efficiency, and then later, the Operational Cost Savings Working Group were charged with developing efficiencies that would result in operational savings on a statewide basis. In fiscal year 2004–2005, the

entire \$2.5 million reduction was allocated to the courts, on an interim basis pending a final allocation on recommendation from the working groups.

Many cost saving approaches have been identified, but given the difficulty of quantifying the savings and identifying which courts would achieve these efficiencies, the Operational Cost Savings Working Group has recommended that the prorated allocation of the \$2.5 million reduction made to all courts in fiscal year 2004–2005 be continued as a permanent ongoing reduction. This amount is familiar to the courts and all of them share in the reduction. Based upon this input, AOC staff and the Trial Court Budget Working Group recommend that the Judicial Council:

7. Approve the permanent allocation to the courts of the \$2.5 million consolidated administration reduction in the amounts allocated in fiscal year 2004–2005, as indicated at column F of Attachment 1.

#### Rationale for Recommendation

This will be the third year that courts will experience a reduction for this purpose. Each court will share in the reduction and the actual amount will be the same for each court as it was last year. This will ensure that courts are not surprised with changes in the amount of reduction that must be accommodated within their operations. This approach also ensures that courts have an incentive to achieve cost reductions and efficiencies without being “punished” by having to absorb a greater share of the reduction in order to capture the savings.

#### Alternative Actions Considered

As mentioned, one alternative considered was to try to determine how much each court’s operating costs were reduced based on the savings that were made possible through the implementation of statewide contracts and other types of cost-savings efforts. This would have been extremely difficult to determine and, was not, consequently, recommended.

#### *One-Time Unallocated Reduction*

As part of the Budget Act of 2004, trial court funding was subject to a one-time \$55 million unallocated reduction. With the application of savings that were available from other one-time statewide sources, the actual reduction allocated to courts was \$27.4 million. In fiscal year 2005–2006, this funding will be restored.

AOC staff performed a detailed analysis of courts’ budgets and reserves, in order to develop an alternative methodology that could be used to reallocate the restored funding, rather than just return it to the individual courts as it had been reduced. This approach could result in a reallocation of this funding in a manner that would provide a greater share of funding to courts identified as being relatively underfunded. After reviewing this issue, however, the Trial Court Working Group and AOC staff believe that due to a proposed allocation of discretionary funding to the courts from the SAL adjustment the amounts reduced from each court’s funding should be fully restored. This recommendation assumes that there are no more significant changes to the trial court

budget than those mentioned in the actions already taken by the Joint Legislative Budget Conference Committee.

AOC staff and the Trial Court Budget Working Group recommend that the Judicial Council:

8. Approve full restoration of the fiscal year 2004–2005 one-time reduction funding to the courts at the same level at which the funding was reduced, as displayed at column G of Attachment 1. If additional adverse changes are made to the overall trial court budget beyond what has been approved by the Joint Legislative Budget Conference Committee, this item will need to be reconsidered and a new recommendation may be presented to the council.

#### Rationale for Recommendation

The proposed recommendation would restore the unallocated reduction to all courts on the same level as which it was taken from them. The one-time reductions were applied to the courts using a methodology that looked at a variety of factors including: adjusted base funding, case weights, clustering of courts by number of JPEs, computing of an allocation per weighted filing, and setting of reduction levels. Ultimately, the methodology identified courts that were under-resourced. These courts experienced less severe reductions. The SAL allocation process, which will be presented to the Judicial Council at its next meeting, will provide funding to those courts that are determined by the Resource Allocation Study model to be under-resourced. Because another method will exist to provide funds to benefit those courts that are experiencing high workload growth compared to their funding and staffing, or are facing other equity funding issues, staff and the Trial Court Budget Working Group believed that each court should have their portion of the \$27.4 million unallocated reduction funding restored beginning in fiscal year 2005–2006.

#### Alternative Actions Considered

There is still a possibility that this recommendation may need to be changed, if the final fiscal year 2005–2006 budget contains additional reductions to the Trial Court Trust Fund beyond what has currently been approved by the Joint Legislative Budget Conference Committee. Should this be the case, a future recommendation may be made to utilize part of the funding to address additional reductions, on a one-time or ongoing basis.

#### Comments from Interested Parties

As mentioned previously, the Trial Court Budget Working Group was brought together on several occasions during fiscal year 2004–2005 to provide assistance in the development of the fiscal year 2005–2006 allocation process, provide subject matter expertise, and assist in the development of recommendations.

#### Implementation Requirements and Costs

There are no additional funds needed to implement these recommendations.

Attachment

## Trial Court Budget Allocations

Court System	FY 2004-2005	FY 2005-2006					
	FC 3150 (One-Time) A	FY 2005-2006 Beginning Base Budget B	Workers' Compensation (Ongoing) C	Workers' Compensation (One-Time) D	SJO Retirement (One-Time) E	\$2.5 Million Consolidated Administration Reduction (Permanent) F	Restoration of One-Time Unallocated Reduction (Permanent) G
Alameda	-	93,391,565	-	-	-	(129,803)	1,437,823
Alpine	-	426,517	-	-	-	(727)	7,913
Amador	17,213	2,313,609	-	-	-	(3,026)	35,450
Butte	12,590	8,402,401	27,295	11,657	3,652	(11,517)	140,895
Calaveras	-	1,733,240	8,962	3,828	-	(2,211)	5,334
Colusa	-	1,233,965	4,074	1,740	-	(1,821)	4,291
Contra Costa	-	45,301,768	250,949	107,173	59,438	(62,813)	672,911
Del Norte	-	2,186,956	21,591	9,221	-	(2,986)	18,512
El Dorado	19,730	8,280,190	-	-	11,609	(11,050)	202,683
Fresno	-	39,212,710	94,921	40,538	-	(52,102)	609,451
Glenn	-	1,666,328	-	-	-	(2,069)	5,295
Humboldt	118,926	5,826,123	-	-	3,919	(8,663)	98,946
Imperial	-	6,142,914	-	-	3,017	(9,248)	58,116
Inyo	-	1,841,228	-	-	-	(2,624)	16,513
Kern	-	34,623,360	117,327	50,107	123,705	(48,058)	274,204
Kings	-	5,587,113	13,851	5,915	4,468	(7,622)	95,837
Lake	30,000	2,382,235	20,369	8,699	1,318	(3,250)	16,640
Lassen	-	1,411,085	4,481	1,914	-	(2,024)	4,812
Los Angeles	-	541,053,362	-	-	-	(751,340)	8,084,054
Madera	-	4,515,818	-	-	-	(6,149)	15,812
Marin	49,700	16,242,628	53,775	22,966	10,693	(23,578)	224,875
Mariposa	588	751,649	-	-	-	(1,013)	6,750
Mendocino	-	5,387,981	41,553	17,746	-	(7,620)	44,578
Merced	-	7,547,106	33,406	14,267	-	(9,846)	44,518
Modoc	-	654,834	-	-	-	(886)	9,676
Mono	-	1,182,535	-	-	-	(1,714)	18,292
Monterey	-	15,913,923	15,073	6,437	5,183	(20,244)	246,877
Napa	17,518	8,272,052	38,702	16,528	-	(10,547)	201,083
Nevada	-	4,562,759	3,259	1,392	-	(6,008)	73,077
Orange	-	152,913,853	531,230	226,873	281,183	(206,642)	2,326,943
Placer	-	10,654,511	52,553	22,444	11,234	(13,717)	157,967
Plumas	-	1,485,320	6,111	2,610	-	(2,137)	26,281
Riverside	-	71,047,807	497,824	212,607	35,022	(94,866)	1,102,189
Sacramento	108,991	78,609,782	201,248	85,947	-	(107,804)	1,182,895
San Benito	-	1,665,673	10,999	4,698	2,188	(2,186)	5,679
San Bernardino	150,841	76,783,011	372,350	159,020	46,097	(101,027)	428,824
San Diego	532,901	164,640,622	563,004	240,439	2,959	(220,266)	2,468,032
San Francisco	-	63,139,964	264,393	112,915	-	(84,979)	1,678,092
San Joaquin	-	23,559,809	119,771	51,151	11,444	(30,916)	138,430
San Luis Obispo	44,035	13,381,679	76,996	32,883	1,394	(18,394)	220,092
San Mateo	41,103	38,360,714	178,435	76,204	(1,651)	(49,823)	924,996
Santa Barbara	-	21,952,080	120,179	51,325	12,026	(30,866)	564,791
Santa Clara	-	97,950,879	102,661	43,844	81,243	(126,425)	1,327,212
Santa Cruz	-	13,280,274	52,553	22,444	13,521	(16,770)	195,710
Shasta	-	7,936,366	26,887	11,483	6,667	(10,906)	49,197
Sierra	-	368,268	2,037	870	-	(687)	14,365
Siskiyou	-	4,045,881	8,962	3,828	4,381	(5,420)	106,418
Solano	-	21,081,505	-	-	-	(28,368)	321,589
Sonoma	-	23,081,233	-	-	-	(31,003)	349,755
Stanislaus	7,674	15,769,452	81,477	34,797	-	(21,324)	248,626
Sutter	-	3,771,194	9,370	4,002	-	(5,136)	30,174
Tehama	-	3,182,636	9,777	4,176	-	(4,167)	26,312
Trinity	-	993,968	1,630	696	-	(1,223)	7,305
Tulare	-	14,601,361	1,630	696	341	(20,545)	88,224
Tuolumne	-	3,017,525	6,111	2,610	2,099	(4,082)	50,730
Ventura	-	35,394,460	-	-	16,390	(44,015)	469,745
Yolo	-	8,609,211	26,073	11,135	9,434	(11,131)	120,590
Yuba	-	3,362,075	-	-	-	(4,618)	55,402
<b>Total:</b>	<b>1,151,811</b>	<b>1,842,689,066</b>	<b>4,073,849</b>	<b>1,739,825</b>	<b>762,972</b>	<b>(2,500,000)</b>	<b>27,361,781</b>

## Trial Court Budget Allocations

<b>Adjusted FY 2005-2006 Base Budget H</b>
94,699,585
433,703
2,346,034
8,574,383
1,749,154
1,242,250
46,329,426
2,233,295
8,483,431
39,905,518
1,669,553
5,920,324
6,194,799
1,855,118
35,140,644
5,699,562
2,426,011
1,420,268
548,386,077
4,525,481
16,531,360
757,386
5,484,237
7,629,451
663,624
1,199,113
16,167,249
8,517,819
4,634,479
156,073,441
10,884,992
1,518,185
72,800,583
79,972,069
1,687,051
77,688,275
167,694,789
65,110,385
23,849,689
13,694,650
39,488,875
22,669,535
99,379,414
13,547,732
8,019,694
384,852
4,164,050
21,374,726
23,399,984
16,113,027
3,809,604
3,218,733
1,002,375
14,671,707
3,074,993
35,836,579
8,765,312
3,412,858
<b>1,874,127,493</b>