

**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

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DATE: July 28, 2009

SUBJECT: Allocation of Trial Court Funding for Fiscal Year 2009–2010, Including
Recommendations Regarding Statewide Funding Reductions
(Action Required)

Issue Statement

The Judicial Council has the authority to approve the allocation of funding to the trial courts. This report presents recommendations related to allocations of funding to courts including the allocation of ongoing funding reductions.

Summary of Recommendations

The Trial Court Budget Working Group (TCBWG) recommended and the Administrative Director has concurred and is carrying forward recommendations 1 through 10. The TCBWG did not consider recommendation 11, which is the standard technical budget delegation. It is recommended that the Judicial Council:

1. Allocate to courts the net \$190.13 million ongoing reduction in fiscal year 2009–2010 (which increases to \$225.13 million in fiscal year 2010–2011) based on each courts relative share of the total statewide non-security base allocation, as indicated in column D of Attachment 1.

2. Adjust individual court allocations to reflect anticipated cost adjustments for FY 2009–2010, as indicated in column E of Attachment 1.
3. Allocate the net security funding shortfall of \$10.26 million to all courts based upon each court’s share of the total statewide security funding. The specific court-by-court allocation is displayed in Column F of Attachment 1. This allocation reflects the following adjustments to court security funding:
 - Security cost increases for existing service levels (\$8.74 million);
 - The amount of unfunded ongoing costs (\$30.60 million);
 - The security share of the overall unallocated budget reduction (\$17.68 million);
 - Redirection of one-time security funding (\$6.76 million);
 - A \$10 increase in the court security fee (\$31.67 million in FY 2009–2010); and
 - \$8.33 million from statewide special funds.
4. Distribute funding to each court once the court has provided documentation to the Administrative Office of the Courts verifying that security compensation and retirement cost increases are confirmed and ratified.
5. Allocate savings of \$2.45 million from rate-driven retirement reductions to offset a portion of the costs for those courts that will have or project to have rate-driven increases for FY 2009–2010 (see columns G and H of Attachment 1) and authorize the use of monies from the statewide special funds on a one-time basis to address the remaining \$7.62 million retirement cost shortfall for FY 2009–2010 (see column I of Attachment 1).
6. Allocate \$9.28 million from the statewide special funds in FY 2009–2010, on a one-time basis, to fund the Court-Appointed Dependency Counsel program at the FY 2008–2009 level.
7. Authorize the allocation of savings from the statewide special funds, on a one-time basis, to address the anticipated shortfall in the court interpreter program for FY 2008–2009. (This amount is currently estimated to be less than \$1 million.)
8. Allocate to each court interpreter region a prorated share of the baseline appropriation in FY 2009–2010 as a guaranteed reimbursement level for planning purposes for FY 2009–2010. The program would reflect each region’s current share of overall eligible

program costs. Any funding unused for reimbursement in any region at the end of the fiscal year would be available for payment of unfunded eligible costs in other regions.

9. Guarantee 100 percent reimbursement of court interpreter cross-assignment costs for courts in FY 2009–2010.
10. Allocate \$644,973 in one-time funding from statewide special funds for non-security costs for new and transferring facilities for FY 2009–2010, as indicated in column J of Attachment 1.
11. Delegate authority to the Administrative Director of the Courts to make minor or technical one-time and ongoing allocations of funds to courts, as needed, to address unanticipated needs and contingencies, to the extent that program savings are identified during the fiscal year from reimbursable or other funds.

Rationale for Recommendation

The reasoning behind the recommendations is discussed in the appropriate, corresponding section of the attached report.

Alternative Actions Considered

Any alternative actions to the recommendations that were considered are discussed in the corresponding section of the attached report.

Comments From Interested Parties

The TCBWG met on April 16, 2009, and July 27, 2009, to review and discuss the various issues and recommendations presented in this report.

Implementation Requirements and Costs

The attached report identifies the amount and source of funding needed to implement each of the recommendations.

Attachments

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Issue Statement

The Judicial Council has the authority to approve the allocation of funding to the trial courts. This report presents recommendations related to allocations of funding to courts including the allocation of ongoing funding reductions.

I. Unallocated Reductions

Recommendation

The Trial Court Budget Working Group has recommended and the Administrative Director has concurred with and is carrying forward the recommendation that the Judicial Council:

1. Allocate to courts the net \$190.13 million ongoing reduction in fiscal year 2009–2010 (which increases to \$225.13 million in fiscal year 2010–2011) based on each courts

relative share of the total statewide non-security base allocation, as indicated in column D of Attachment 1.

Rationale for Recommendation

There are two major components to this allocation item: (1) identifying the amount of the net ongoing reduction and (2) determining how to allocate the reduction among the courts.

Identifying the amount of the reduction

The Budget Act of 2009 includes unallocated one-time and ongoing reductions, funding offsets in the form of new and increased fees to generate additional revenue, and one-time redirections of statewide trial court special funds to mitigate the impact of the reductions on trial court funding allocations. The net impact of these reductions and offsets is an unallocated ongoing reduction of \$190.13 million in fiscal year (FY) 2009–2010, which grows by \$35 million to \$225.13 million in FY 2010–2011. Below is a description of each of the trial court funding reductions and funding offsets included in the identification of the reduction amount.

Unallocated Reductions to Trial Court Funding (\$360.80 million)

- **One-Time Reduction (\$100 million):** The 2009 Budget Act imposes a one-time reduction of \$100 million to trial court funding.
- **Ongoing Reduction (\$92.24 million):** The 2009 Budget Act includes the continuation of the FY 2008–2009 one-time reduction of \$92.24 million, on an ongoing basis.
- **Ongoing Reduction (\$168.57 million):** In addition to the ongoing reduction noted above, as part of the May Revision, the Governor proposed, an additional reduction of \$168.57 million.

Funding Offsets:

One-Time Offsets (\$135 million)

- \$130 million—The Budget Act specifies that the Judicial Council provide one-time funding offsets from the Trial Court Trust Fund (TCTF), Judicial Administration Efficiency and Modernization Fund (Modernization Fund), Trial Court Improvement Fund (TCIF), and State Court Facility Construction Fund—

Immediate and Critical Needs Account (SCFCF-ICNA) (up to \$25 million), as a means of mitigating the impact of the reductions to courts in FY 2009–2010.

- \$5 million—This is an initial estimate of cost reduction resulting from an assumed level of judicial participation in voluntary salary waivers. When the actual amount of TCTF savings related to judicial participation in closures is known, this funding offset to court reductions will be adjusted.

Security Share of Ongoing Reduction (\$17.68 million): At its April 16, 2009, meeting, the TCBWG recommended that the security program receive a prorated share of the \$92.24 million ongoing reduction, which is \$17.68 million. Allocation of this reduction is discussed in the section titled “Unfunded Court Security Costs and Reduction”, beginning at page 10 of this report.

Estimated New/Increased Fee Revenue (\$18 million)

- \$5 Court Reporter Fee (\$5.83 million)—Trailer bill language provides a permanent \$5 first paper civil filing fee increase related to court reporters. The FY 2009–2010 estimate of new revenue from this legislation is \$5.83 million (10-month implementation) and \$7 million on an annual basis.
- \$10 Postjudgment/Miscellaneous Fees (\$9.17 million)—Additional budget trailer bill language increases by \$10 fees under Government Code section 70626. The revenue from this fee increase is estimated to be \$9.17 million in FY 2009–2010 (10-month implementation) and \$11 million in FY 2010–2011 and ongoing.
- Funding from statewide special funds for partial-year receipts (\$3 million)—This one-time funding from the statewide special funds (TCTF, Modernization Fund, and Trial Court Improvement Fund) is intended to augment the loss of two months of revenue from the fees noted above due to late Budget Act implementation and reduce the first year impact of cuts to court budgets.

Net Ongoing Reductions for FY 2009–2010: After funding offsets that total \$170.68 million, the total net ongoing reduction to be allocated to trial courts in FY 2009–2010 is \$190.13 million.

The table on the following page displays the various reductions and offsets in the computation.

FY 2009–2010 Unallocated Reductions and Funding Offsets

Unallocated Reductions to Trial Court Funding

One-Time	-100,000,000	
Ongoing	-92,240,000	
Ongoing	-168,569,000	
	-360,809,000	-360,809,000

Funding Offsets

One-Time Offsets

- Reduction of Statewide Funds (TCTF, Modernization, TCIF, SCFCF/ICNA)	130,000,000	
- Estimated Savings Resulting From Judges Participating in Voluntary Salary Waivers	5,000,000	
	135,000,000	135,000,000

Ongoing Reduction: Security Share 17,682,408

Estimated New/Increased Fee Revenue

- \$5 Court Reporter Fee	5,833,333	
- \$10 Post Judgment/Miscellaneous Fees	9,166,667	
- Funding From Statewide Special Funds for Partial-Year Receipts	3,000,000	
	18,000,000	18,000,000

Net Ongoing Reductions for FY 2009–2010 **-190,126,592**

Allocating the \$190.13 million reduction

Two options for allocating the ongoing reduction were considered. They are described below.

Option 1–Pro-Rata Allocation

Option 1 would allocate the net \$190.13 million ongoing reduction in FY 2009–2010 and the additional \$35 million ongoing reduction in FY 2010–2011 to courts based on their relative shares of the total statewide non-security TCTF base allocation. Under this option, each court’s total ongoing reduction in FY 2010–2011 is 11.91 percent of its non-security base allocation.

Option 2–Pro-Rata Allocation With 15 Percent Discount for Courts Relatively Lesser Resourced by 25 Percent or More

Option 2 would reduce the pro-rata share of the reduction by 15 percent to 10.12 percent from 11.91 percent for the eight courts that are 25 percent or more underfunded according to the Resource Allocation Study (RAS) funding model. All other courts would be allocated a pro-rata share (12.21 percent) of the remaining unallocated reduction.

Staff have reviewed various options for allocating the net ongoing reduction of \$190.13 million in FY 2009–2010 (which increases to \$225.13 million in FY 2010–2011), and present two options for consideration. As requested by the TCBWG at its April 16th meeting, in development of these options staff included an allocation methodology that takes into consideration the results of the Resource Allocation Study (RAS) funding model, which staff updated to include the most recent reported filings data. This year’s model incorporated the following adjustments: using the lesser of the actual or cluster median/average average compensation, contractor adjustment, and operating expenses and equipment; and adding civil assessment revenues to the total TCTF allocations. Because no SAL or CPI funding is being provided in FY 2009–2010 and given that some courts have unfunded salary increases in FY 2009–2010, FY 2008–2009 budgeted compensation data from courts’ Schedule 7A was used to compute average compensation.

Some TCBWG members expressed opposition to the use of the RAS model for allocation of the reduction because some courts have already made changes to their court operations in anticipation of the budget reductions that are not taken into account in the RAS model.

Staff and the TCBWG recommend Option 1, which would apply a straight pro-rata adjustment to all courts, as an equitable means of allocating the reduction. This approach would not, however, reduce the relative impact to courts that are relatively lesser resourced, and those that have minimal fund balances.

Alternative Actions Considered

As outlined above, an alternative methodology discussed was to use the RAS model to determine which courts are severely less resourced compared to other courts and which would, accordingly, have more difficulty in absorbing a larger ongoing reduction. These courts would be allocated a lesser portion of the reduction, while all other courts’ percentage of the reduction would increase. While this method would recognize the disparate impact of the most under-resourced courts, there was concern about the need to

update the RAS model as a tool to determine relative resource rankings, and overall, a sense that a straight pro-rata cut is overall the most fair.

Direction That \$71 Million of Reduction Be Made From Trial Court Fund Balances (Information Only)

The Legislature's Joint Budget Conference Committee took action specifying that \$71 million of the overall reductions to trial court funding in FY 2009–2010 must come from trial courts' fund balances. This does not represent an additional reduction to the courts but rather represents direction for courts to reduce total fund balances in FY 2009–2010 by at least \$71 million as part of the overall approach to addressing ongoing reductions. In other words, at least \$71 million of the net \$190.13 million in reductions in FY 2009–2010 must be made from the courts' fund balances.

AOC Finance Division staff intends to survey all trial courts in August to determine how much of their respective reduction they plan to address through the use of their fund balance. If the total reductions to fund balances identified by the courts does not reach or exceed \$71 million, staff plan to return to the council later in the year with recommendations regarding how to reach the required level of fund balance allocation.

II. Unfunded Court Security Costs and Reduction

Recommendation

The Trial Court Budget Working Group has recommended and the Administrative Director has concurred with and is carrying forward the recommendation that the Judicial Council:

2. Adjust individual court allocations to reflect anticipated cost adjustments for FY 2009–2010, as indicated in column E of Attachment 1.
3. Allocate the net security funding shortfall of \$10.26 million to all courts based upon each court's share of the total statewide security funding. The specific court-by-court allocation is displayed in Column F of Attachment 1. This allocation reflects the following adjustments to court security funding:
 - Security cost increases for existing service levels (\$8.74 million);
 - The amount of unfunded ongoing costs (\$30.60 million);
 - The security share of the overall unallocated budget reduction (\$17.68 million);
 - Redirection of one-time security funding (\$6.76 million);

- A \$10 increase in the court security fee (\$31.67 million in FY 2009–2010); and
 - \$8.33 million from statewide special funds.
4. Distribute funding to each court once the court has provided documentation to the Administrative Office of the Courts verifying that security compensation and retirement cost increases are confirmed and ratified.

Rationale for Recommendation

For FY 2009–2010, trial courts will automatically receive baseline security funding totaling \$507.77 million. This base includes \$30.60 million in funding that has been provided since FY 2006–2007 to address ongoing security costs at the existing service level, through one-time security funding. In addition, \$8.74 million is needed to fund FY 2009–2010 cost increases. No new funding was provided by the Budget Act of 2009 to fund projected security cost increases. Three funding sources are proposed to be used to address funding of security cost increases.

- \$6.76 million in one-time security carryover funding from previous years. This includes one-time savings from (1) ongoing funding of new entrance screening stations included in the Budget Act of 2006 that have not yet been implemented, (2) ongoing funding of new screening stations for new or transferring facilities that have not yet been implemented, and (3) entrance screening equipment replacement funding not used in FY 2007–2008 and FY 2008–2009.
- A \$10 increase to the \$20 security fee authorized by Penal Code section 1465.8. This is estimated to generate an additional \$31.67 million in revenue in FY 2009–2010 (10 months of fee revenue), and \$40 million in FY 2010–2011. This fee increase will sunset on June 30, 2011.
- \$8.33 million in one-time funding from available monies from statewide special funds (TCTF, Modernization Fund, TCIF). This one-time funding is intended to offset the loss of two months of planned revenue from the security fee, resulting from late implementation of the Budget Act. This funding will reduce the impact of the cut to court security funding in FY 2009–2010.

In order to determine the statewide allocation of new security funding, a court security survey was sent to the trial courts in March 2009. The courts and sheriffs were requested to provide cost information in the following areas:

- Salaries;

- Pay differentials;
- Overtime;
- Benefits;
- Retirement; and
- Services and supplies and other costs.

This information was used to estimate the change in costs that will be incurred by courts for the *existing security service level*— meaning the cost in FY 2009–2010 for courts to receive essentially the same level of security services received in FY 2008–2009.

Analysis of requests

The court surveys were reviewed by staff. Consistent with the funding approach that was recommended by the Working Group on Court Security and approved by the Judicial Council in 2007, the following principles were applied in developing the statewide security funding recommendation:

- The security staffing changes that are in excess of the prior year staffing level cannot be accommodated within the limited funding. This does not apply to courts that received separate security allocations, such as for the implementation of new entrance screening stations funded through the Budget Act of 2006. The security equipment and supplies and services standards were implemented as well as the standards for professional services and vehicle costs. Any costs above standards were deducted.
- All items that are not allowable under Senate Bill 1396 (Stats. 2002, ch. 1010) were not recommended. Nonallowable costs would include those approved SB 1396 costs not previously paid by a court and those listed in section 14.01 of the *Trial Court Financial Policies and Procedures Manual*, page 25, Section II: Non-Allowable Cost Narratives. Examples would include costs for flashlights, parking, tasers, and basic training for new personnel assigned to the court.
- Only allowable equipment, services, supplies, and benefits that have been previously paid by the courts were included in the staff funding recommendations.

Based on this methodology, net statewide cost increases for security for existing service levels is projected to be \$8.74 million in FY 2009–2010. Please note that many of these increases and decreases are based on contracts that have yet to be ratified or reflect estimated cost-of-living increases that will be finalized at a later date.

Funding shortfall

Because the only additional funding available this year to fund projected security cost increases is from the increased court security fee, one-time security funding, and one-time funding from the statewide special funds, and given the use of one-time funding in prior years that is no longer available, there is a projected funding shortfall of approximately \$10.26 million in FY 2009–2010, as displayed in the table on page 12. It is also assumed that \$21.36 million in security savings will occur as a result of the one day a month court closure, which is not included in this calculation, but could be used by courts to address their portion of the security reduction.

Security Funding FY 2009–2010

HSecurity Base Allocations FY 2008–2009	\$	507,773,818
HLess: Unfunded Ongoing Costs		(30,599,056)
HAdd: One-Time Security Funding Available 2009–2010		6,761,280
HAdd: Increased Security Fee of \$10		31,666,667
HAdd: One-Time Funding to Offset Security Fee Gap		8,333,333
HFY 2009–2010 Security Funding	\$	<u>523,936,042</u>

H

HSecurity Costs FY 2009–2010

HSecurity Base Allocations FY 2008–2009	\$	507,773,818
HAdd: FY 2009–2010 Projected Cost Increases		8,737,610
HAdd: Share of Statewide Unallocated Reduction		17,682,408
HProjected Security Costs FY 2009–2010	\$	<u>534,193,836</u>

H

HSecurity Funding Shortfall FY 2009–2010 \$ (10,257,794)

H

A recommendation will be made at the August 14, 2009, Judicial Council meeting for staff to prepare and submit a FY 2010–2011 budget change proposal (BCP) to notify the Governor and Legislature regarding the level of the existing security funding shortfall and to request ongoing funding to address the shortfall in the future and also to make the \$10 increase in the security fee permanent, rather than have it sunset after two years as the law currently reads.

Alternative Actions Considered

An alternative considered was not to provide one-time funding from the statewide special funds in order to fill the gap in funding from the delay in implementation of the security

fee increase. This would have increased the overall security reduction by \$8.33 million. Because of the size of the overall reduction the courts are already facing and the fact that funds were available on a one-time basis in FY 2009–2010, this alternative was not recommended.

II. Court Employee Retirement Rate and Plan Cost Changes

Recommendation

The Trial Court Budget Working Group has recommended and the Administrative Director has concurred with and is carrying forward the recommendation that the Judicial Council:

5. Allocate savings of \$2.45 million from rate-driven retirement reductions to offset a portion of the costs for those courts that will have or project to have rate-driven increases for FY 2009–2010 (see columns G and H of Attachment 1) and authorize the use of monies from the statewide special funds on a one-time basis to address the remaining \$7.62 million retirement cost shortfall for FY 2009–2010 (see column I of Attachment 1).

Rationale for Recommendation

AOC staff surveyed the courts in spring 2009 to determine the cost of court staff retirement rate and plan changes for FY 2009–2010. Based on this information, overall projected court cost adjustments resulting from both rate and plan changes in FY 2009–2010 (\$8.24 million) and an annualized cost adjustment carried forward from FY 2008–2009 (-\$615,125), will be \$7.62 million. A few courts still do not have ratified rates for the current fiscal year.

In the past several years, the annual budget act provided new trial court funding through the State Appropriations Limit (SAL) or the Consumer Price Index (CPI) adjustment process. When determining allocation of the new funding, the retirement allocation was calculated first and on a statewide basis, before allocation of the remainder of the new funding. Allocations have been made to courts only after rate changes have been confirmed. To the extent that retirement costs decreased in specific courts, the excess retirement funding was made available to other courts experiencing retirement cost increases or retained to address increased retirement costs in a future year.

The recommended methodology, consistent with the annual approved state funding policy, would reduce funds from those courts with decreases in their retirement rates for FY 2009–2010 and allocate those funds to courts that will experience increases in their retirement rates. The total projected amount of increased retirement costs in the courts in FY 2009–2010 is \$10.08 million. The amount of savings from those courts that have decreases in retirement in FY 2009–2010 is \$2.45 million. The recommendation provides that the \$2.45 million in savings will be redistributed to the courts with the \$10.08 million in increases on a pro-rata basis. This leaves a net deficit of \$7.62 million. Funding from the statewide special funds would be used on a one-time basis in FY 2009–2010 to address this shortfall. This is an ongoing local court funding issue; the recommendation would provide one-time funding to offset it.

A recommendation will be made at the August 14, 2009, Judicial Council meeting for staff to prepare and submit a FY 2010–2011 BCP to notify the Governor and Legislature regarding the level of the existing funding shortfall and to request ongoing funding to address the shortfall in the future.

Alternative Actions Considered

An alternative would be to allocate the savings (\$2.45 million) from courts with reductions to those with increases (\$10.08 million) on a pro-rata basis, consistent with ongoing practice. Courts with increased retirement rates would then be required to absorb the unfunded balance of \$7.62 million, which would impact some courts more than others.

III. Court-Appointed Dependency Counsel

Recommendation

The Trial Court Budget Working Group has recommended and the Administrative Director has concurred with and is carrying forward the recommendation that the Judicial Council:

6. Allocate \$9.28 million from the statewide special funds in FY 2009–2010, on a one-time basis, to fund the Court-Appointed Dependency Counsel program at the FY 2008–2009 level.

Rationale for Recommendation

Base funding for the court-appointed counsel program in FY 2008–2009 was \$103.72 million. Expenditures for the program last year were approximately \$113 million, resulting in a \$9.28 million funding gap. Program costs have exceeded statewide available program funding since FY 2004–2005. In FY 2004–2005, costs exceeded available program funding by 3 percent. By FY 2008–2009, costs exceeded funding by 8.33 percent. Full funding of the expenditures has been accomplished during these four years through the use of available one-time funding from other trial court funding sources.

In September 2008, AOC staff submitted a FY 2009–2010 BCP in an effort to address the structural deficit in the court-appointed counsel program. The funding was not approved. A recommendation will be presented to the Judicial Council at its August 14, 2009 meeting to direct staff to prepare a FY 2010–2011 BCP to request funding to provide a permanent solution to the ongoing program shortfall. In addition, the AOC's Office of Governmental Affairs is actively working on identifying a new funding stream for the program, potentially through the development or modification of a fee. In light of the importance of court-appointed dependency counsel, and the intensive nature of agency efforts to stabilize program funding, it is believed that an additional year of gap funding is warranted.

Even if funding remains at the full FY 2008–2009 level, the dependency counsel program is underfunded based upon the statewide caseload standards approved by the Executive and Planning Committee on behalf of the Judicial Council on June 10, 2008. Given a projected overall funding need of up to \$55 million to fully support the caseload standards, and in light of the potential contract reductions that would otherwise need to be implemented in contracts as part of this program, staff and the TCBWG are recommending allocation of statewide special funds of approximately \$9.28 million in one-time monies to fund the program at the FY 2008–2009 funding level.

Alternative Actions Considered

An alternative to the recommendation would be not to provide any additional one-time funding to the program to address the projected funding gap in FY 2009–2010. Assuming a constant expenditure level, not providing the gap funding would result in a reduction to the program of 8.2 percent. Taking into account the funding methodology for the program, which bases allocation levels on workload and need, this level of reduction would effectively result in per-court dependency counsel funding cuts of between 1 and

15.6 percent. Significant concerns arose with respect to implementing such reductions, given the impact that the reductions would have on pending legislative efforts to secure a stabilized funding base for the program. As a result of these concerns and the existence of available one-time funding, this alternative is not recommended.

V. Court Interpreter Program

Recommendation

The Trial Court Budget Working Group has recommended and the Administrative Director has concurred with and is carrying forward the recommendation that the Judicial Council:

7. Authorize the allocation of savings from the statewide special funds, on a one-time basis, to address the anticipated shortfall in the court interpreter program for FY 2008–2009. (This amount is currently estimated to be less than \$1 million.)
8. Allocate to each court interpreter region a prorated share of the baseline appropriation in FY 2009–2010 as a guaranteed reimbursement level for planning purposes for FY 2009–2010. The program would reflect each region’s current share of overall eligible program costs. Any funding unused for reimbursement in any region at the end of the fiscal year would be available for payment of unfunded eligible costs in other regions.
9. Guarantee 100 percent reimbursement of court interpreter cross-assignment costs for courts in FY 2009–2010.

Rationale for Recommendation

FY 2008–2009

The base budget for reimbursable court interpreter costs in FY 2008–2009 was \$92.79 million. Final total reimbursable court interpreter expenditures for last year have not yet been determined. Staff will send a year-end survey to the courts in the next couple of weeks to determine what their reimbursable expenditures were and compare that amount to the funding they received during the year. As of the date of this report, the projected reimbursable court interpreter expenditures for FY 2008–2009 are \$92.95 million. This projection includes actual expenditures for 57 of the 58 superior courts through the fourth quarter, including accruals, plus estimated expenditures for the Superior Court of Los Angeles County using third-quarter Quarterly Financial Statement report data. Based on this projection, the shortfall for FY 2008–2009 is \$157,456. However, there is some

amount of fluctuation and variability in the reimbursable expenditures for the court interpreter program. It is believed that the final shortfall for this program could be up to \$1 million for FY 2008–2009. Authority to allocate savings from statewide special funds, on a one-time basis, to address the projected shortfall in FY 2008–2009 up to \$1,000,000 is requested. This recommendation is made because the trial courts are already facing severe budget reductions for FY 2009–2010 and this would be one less cost they would need to absorb from their existing budgets.

FY 2009–2010

Program expenditures for FY 2009–2010 are not known at this time. AOC staff and the TCBWG discussed seeking approval of the Judicial Council to increase the baseline, on a one-time basis, by up to \$1 million to maintain an equivalent level with the FY 2008–2009 funding. Instead of seeking additional funding at this time, however, staff will monitor court interpreter costs closely during the year and come back to the Judicial Council if additional funding is needed.

Regional interpreter budget

The state is divided into four geographic regions for court interpreter collective bargaining purposes. Approval of recommendation 8 would establish a separate budget for each of the four regions as a guaranteed reimbursement level for planning purposes for FY 2009–2010. This level would be set once the determination of final reimbursable costs has been made for FY 2008–2009. Funding would be set aside for each region that reflects its proportion of the total interpreter budget. Unexpended funding remaining at the end of the year could be used for unfunded reimbursable costs in other regions. This policy would ensure that no region is shortchanged in terms of funding for this program while another receives more funding than it is entitled to.

100 percent reimbursement of cross-assignments

Some courts give assistance to other courts by agreeing to have their interpreters provide interpreting services to another court. With no new ongoing funding available to address reimbursable interpreter costs, there is some concern that these “home” courts may be reluctant to allow their interpreters to provide services to “away” courts. It is anticipated that there will be less reluctance by courts to continue to cross-assign interpreters if home courts are guaranteed that 100 percent of reimbursable expenditures for these cross-assignments will be funded. Courts have been notified that if they want a guarantee that they will be reimbursed for these cross-assignments they must be able to track these

costs. A memorandum was sent to the courts advising them as to the procedure for tracking the costs in the Phoenix Financial System.

Alternative Actions Considered

As mentioned previously, an alternative considered was to recommend approving an equivalent increase in funding up to \$1 million on a one-time basis, from the statewide special funds in FY 2009–2010 to meet the level of funding requested based on the FY 2008–2009 expenditures. This alternative is not recommended because it is not known whether additional funds will be needed in FY 2009–2010 or if courts may be able to utilize efficiencies during the year that will decrease their interpreter program costs. In addition, the impact of court closures upon court interpreter costs is also unknown at this time.

VI. Staff and Operating Costs for New and Transferring Facilities

Support costs to operate new and transferring facilities is an area that has been approved for funding by the Judicial Council as a statewide allocation of SAL or CPI funding since FY 2005–2006. While funding has been provided for this area, it has been substantially less than the need identified by the courts. In FY 2009–2010, no SAL or CPI funding has been provided to address these costs.

For purposes of staff review, the costs in this program area were separated into two components: non-security and security. Specific items of the non-security requests were reviewed by AOC staff from the following divisions: Finance, Information Services, and Office of Court Construction and Management (OCCM). Similarly, security requests, depending upon the type of item requested, were reviewed by staff of the following divisions: Finance, Office of Emergency Response and Security (OERS), and OCCM. Each component is discussed below.

Non-security

Recommendation

The Trial Court Budget Working Group has recommended and the Administrative Director has concurred with and is carrying forward the recommendation that the Judicial Council:

10. Allocate \$644,973 in one-time funding from statewide special funds for non-security costs for new and transferring facilities for FY 2009–2010, as indicated in column J of Attachment 1.

Rationale for Recommendation

A survey was sent to the courts on March 5, 2009, to identify support costs necessary to open and operate court facilities that would open or transfer during the period July 1, 2009, through September 30, 2010. Nine courts submitted a total of 10 funding requests for non-security operating costs. Six requests were for new facilities, one for a leased facility, and three for remodeled facilities. Requests included costs for items such as furniture, network equipment, computers, cleaning supplies, costs for new positions, lease charges, fax and copier service charges, and child care service.

Non-security costs requested totaled \$4.18 million, of which \$3.77 million was one-time and \$416,335 was ongoing in FY 2009–2010, with an additional \$241,981 to annualize the costs in FY 2010–2011. There was also \$425,676 in funding requests for facilities that will open in the first three months of FY 2010–2011.

Because no new funding was provided by the state for this program in FY 2009–2010, in reviewing all individual requests staff applied the following criteria in developing funding recommendations related to the requests:

- Only one-time funding needs could be addressed through this process as the Legislature provided no new ongoing funding.
- Costs had to be nondiscretionary; necessary to open and operate the facility. Optional items were not recommended.
- Costs could not be eligible for funding from other funding sources, such as capital outlay, facilities modification funds, Assembly Bill 159 (for new judgeships), or security equipment funds.

Based on this review, costs for the following items and services were not recommended in this program area: janitorial position costs, monthly telecommunications charges, contractor fees, contingency fees or costs to build or remodel a facility, electronic access readers, alarm monitoring systems, and costs related to AB 159.

Alternative Actions Considered

An alternative that was considered was to recommend no funding of any type for this program in FY 2009–2010. Again, due to the unallocated reductions the courts are already facing and the availability of one-time funds to address these costs, this option was not recommended.

Security

Due to a lack of funding, AOC staff recommended and the TCBWG concurred with the approach to not allocate funding to address security costs for new and transferring facilities in FY 2009–2010.

Rationale

Nine courts requested security-related funding for 13 facilities that would open or transfer during the period July 1, 2009, through September 30, 2010. One-time requests for these facilities totaled \$3.96 million, and ongoing costs in FY 2009–2010 totaled \$3.79 million, annualized to \$3.84 million in FY 2010–2011. (One court would not open until September 2010 and is not included in these amounts.) As of July 23, 2009, nine of the facilities are scheduled to have already opened or transferred.

One-time equipment costs were requested for 10 of the facilities. The types of equipment requested included x-ray machines, magnetometers, wands, cameras, card readers, wireless duress alarms, construction of holding cells, parking for judges, defibrillators, portable radios, software for intercoms, digital video records, closed-circuit television monitors, and alarm system enunciators.

Requests for staffing were made for seven facilities. Functional areas for which staffing was requested included positions for courtrooms, entrance screening, supervision, holding cells, control rooms, internal security, and prisoner movement. In previous years, ongoing funding has only been provided for entrance screening positions.

As mentioned previously, some or all of the security requests were reviewed by staff from the Office of Emergency Response and Security and the Office of Court Construction and Management. As a result of their review, OCCM staff will contact one court regarding the possibility of consideration of their requests for one-time costs for holding cell, sally port, and judges' parking costs as part of the facilities modification process. OERS staff will separately review most of the one-time requests for possible funding from Trial Court Improvement Fund monies allocated by the Judicial Council for

addressing facility security concerns (assuming continued council support for that allocation from TCIF).

Alternative Actions Considered

Due to the lack of ongoing funding in FY 2009–2010, no alternative actions were considered.

VII. Delegation of Authority

Recommendation

The AOC recommends that the Judicial Council:

11. Delegate authority to the Administrative Director of the Courts to make minor or technical one-time and ongoing allocations of funds to courts, as needed, to address unanticipated needs and contingencies, to the extent that program savings are identified during the fiscal year from reimbursable or other funds.

Rationale for Recommendation

This is a standard technical delegation to the Administrative Director of the Courts, needed to manage the budget during the fiscal year. For some of the allocations included in this report, the actual amounts may change as updated information is received from the courts, such as changes in agreements for retirement or security salary and benefit costs. Rather than being required to return to the council during the fiscal year to seek authority to amend these allocations, having the authority delegated to the Administrative Director to do so in advance will facilitate allocating funding when final amounts are known.

In addition, each year some courts incur unanticipated costs that, depending on the financial health of the court, may be difficult to address, creating a cash flow problem. Such unanticipated issues make it advisable that the Administrative Director have the ability to direct unallocated statewide special fund monies in an efficient and flexible manner.

Alternative Actions Considered

No specific alternatives were considered, other than coming back to the council any time technical adjustments need to be made or if unanticipated costs arise. This approach, though, would likely cause delays for getting necessary funding to the courts involved.

Comments From Interested Parties

Meetings of the Trial Court Budget Working Group were held on April 16, 2009, and July 27, 2009 at which these items were discussed. The recommendations were not circulated to the public for comment.

Implementation Requirements and Costs

None

Attachment

Proposed Allocation of FY 2009-2010 Trial Court Funding and Reduction Adjustments

Court System	Information Only			Proposed Allocations							Information Only
	FY 2009-10 Beginning Base (excluding security)	FY 2009-10 Security Base	FY 2009-2010 Total Beginning Base Budget (A+B)	Allocation of \$190.13 Million Reduction in FY 2009-2010	FY 2009-2010 Security Funding Adjustment	FY 2009-2010 Security Funding Reduction	FY 2009-2010 Retirement Reduction for Courts with Cost Savings	Redistribution of FY 2008-2009 Retirement Cost Savings	FY 2009-2010 One-Time Retirement Allocation	FY 2009-2010 One-Time Funding for New Facilities	Adjusted FY 2009-2010 Base Budget (C:J)
	A	B	C	D	E	F	G	H	I	J	K
Alameda	\$ 92,023,913	\$ 24,883,637	\$ 116,907,550	\$ (9,258,900)	\$ 860,204	\$ (511,267)	\$ -	\$ 722,270	\$ 2,243,540		\$ 110,963,399
Alpine	661,975	12,034	674,009	(66,604)	-	(239)	(487)	-	-	-	606,679
Amador	2,692,300	562,331	3,254,630	(270,883)	-	(11,168)	-	1,448	4,497		2,978,524
Butte	9,722,019	2,338,928	12,060,947	(978,172)	73,529	(47,911)	-	39,030	121,237		11,268,660
Calaveras	2,447,430	277,500	2,724,930	(246,246)	9,712	(5,704)	-	243	754		2,483,689
Colusa	1,771,429	132,002	1,903,431	(178,231)	-	(2,622)	(5,111)	-	-		1,717,467
Contra Costa	43,168,907	13,513,201	56,682,107	(4,343,399)	(487,660)	(258,684)	-	24,102	74,867	-	51,691,333
Del Norte	2,909,375	287,693	3,197,068	(292,724)	21,193	(6,134)	-	2,714	8,431		2,930,548
El Dorado	7,833,240	2,181,504	10,014,743	(788,134)	(32,555)	(42,678)	(6,879)	-	-	-	9,144,498
Fresno	42,967,578	13,690,086	56,657,664	(4,323,142)	496,921	(281,751)	-	47,331	147,022	-	52,744,046
Glenn	2,299,824	329,013	2,628,838	(231,395)	-	(6,534)	(4,144)	-	-		2,386,765
Humboldt	6,664,526	1,203,256	7,867,781	(670,545)	26,883	(24,430)	(6,600)	-	-		7,193,089
Imperial	8,575,956	1,583,744	10,159,700	(862,862)	43,377	(32,314)	(191,542)	-	-		9,116,359
Inyo	2,175,697	245,101	2,420,797	(218,906)	6,652	(5,000)	-	-	-		2,203,544
Kern	35,101,848	9,028,381	44,130,229	(3,531,739)	312,382	(185,505)	-	206,612	641,785		41,573,764
Kings	6,577,335	1,395,525	7,972,860	(661,772)	(53,723)	(26,648)	(5,029)	-	-		7,225,687
Lake	4,035,447	661,008	4,696,455	(406,023)	1,083	(13,149)	(61,663)	-	-		4,216,703
Lassen	2,542,495	446,935	2,989,430	(255,811)	6,727	(9,010)	-	395	1,226		2,732,957
Los Angeles	522,537,366	163,843,355	686,380,721	(52,574,606)	(1,611,085)	(3,221,894)	-	281,644	874,852		630,129,631
Madera	7,624,424	1,320,506	8,944,930	(767,124)	57,936	(27,376)	(36,397)	-	-		8,171,970
Marin	17,295,984	2,815,070	20,111,054	(1,740,219)	143,768	(58,762)	(7,488)	-	-		18,448,353
Mariposa	1,227,062	189,802	1,416,864	(123,460)	3,539	(3,840)	(638)	-	-		1,292,466
Mendocino	5,344,401	1,615,040	6,959,441	(537,722)	62,426	(33,314)	(85,809)	-	-		6,365,023
Merced	11,475,434	2,494,647	13,970,081	(1,154,590)	255,321	(54,614)	(200,886)	-	-	-	12,815,312
Modoc	1,225,308	104,137	1,329,445	(123,283)	-	(2,068)	-	368	1,143		1,205,604
Mono	1,515,969	434,901	1,950,870	(152,528)	54,946	(9,728)	(4,210)	-	-		1,839,350
Monterey	17,186,615	4,639,507	21,826,121	(1,729,215)	237,454	(96,855)	-	797	2,474	489,000	20,729,776
Napa	8,112,242	1,805,325	9,917,567	(816,206)	68,055	(37,205)	(19,334)	-	-		9,112,878
Nevada	5,268,486	1,140,295	6,408,781	(530,084)	(2,045)	(22,605)	-	11,561	35,912		5,901,520
Orange	157,701,070	41,900,845	199,601,915	(15,833,401)	1,259,864	(857,161)	(330,284)	-	-		183,840,933
Placer	14,951,574	3,197,440	18,149,014	(1,504,339)	399,659	(71,438)	-	7,089	22,019		17,002,005
Plumas	1,828,391	198,159	2,026,550	(183,962)	7,985	(4,094)	-	161	499		1,847,140
Riverside	79,364,889	15,755,674	95,120,563	(7,985,224)	627,312	(325,362)	(668,511)	-	-	129,973	86,898,751
Sacramento	78,767,257	22,462,995	101,230,252	(7,925,094)	1,665,747	(479,191)	-	178,806	555,413		95,225,933
San Benito	3,259,495	356,207	3,615,701	(327,951)	12,778	(7,328)	(3,163)	-	-		3,290,037
San Bernardino	83,839,852	26,925,339	110,765,191	(8,435,468)	55,794	(535,839)	(227,258)	-	-	23,000	101,645,421
San Diego	161,661,182	33,094,093	194,755,274	(16,265,388)	(722,601)	(642,890)	-	-	-	-	177,124,395
San Francisco	66,879,650	10,645,041	77,524,691	(6,729,033)	667,978	(224,674)	-	497,734	1,546,078		73,282,774

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	A	B	C	D	E	F	G	H	I	J	K
San Joaquin	30,289,625	8,284,032	38,573,657	(3,047,562)	416,168	(172,784)	-	234,894	729,635	3,000	36,737,007
San Luis Obispo	14,420,797	3,776,855	18,197,652	(1,450,935)	265,702	(80,284)	(20,938)	-	-	-	16,911,197
San Mateo	38,349,586	9,037,426	47,387,012	(3,858,508)	148,953	(182,439)	-	20,978	65,162	-	43,581,159
Santa Barbara	22,809,063	5,740,293	28,549,356	(2,294,912)	256,024	(119,085)	-	27,744	86,178	-	26,505,304
Santa Clara	95,513,111	28,144,444	123,657,555	(9,609,962)	1,649,404	(591,699)	-	24,460	75,979	-	115,205,738
Santa Cruz	13,216,802	2,739,232	15,956,034	(1,329,796)	74,932	(55,889)	(12,215)	-	-	-	14,633,067
Shasta	10,028,324	2,311,033	12,339,357	(1,008,990)	102,504	(47,932)	-	4,622	14,356	-	11,403,917
Sierra	699,249	27,000	726,250	(70,354)	-	(536)	(269)	-	-	-	655,090
Siskiyou	4,237,041	664,032	4,901,073	(426,306)	(31,017)	(12,572)	-	689	2,142	-	4,434,010
Solano	21,205,765	5,347,309	26,553,075	(2,133,598)	244,374	(111,049)	-	6,228	19,346	-	24,578,375
Sonoma	24,086,115	6,778,026	30,864,141	(2,423,402)	308,472	(140,736)	-	54,273	168,584	-	28,831,332
Stanislaus	18,589,115	4,676,488	23,265,603	(1,870,326)	(33,615)	(92,206)	-	31,617	98,211	-	21,399,283
Sutter	4,332,230	783,152	5,115,382	(435,883)	25,243	(16,055)	-	1,398	4,342	-	4,694,427
Tehama	3,705,304	547,197	4,252,501	(372,806)	7,153	(11,009)	(11,534)	-	-	-	3,864,306
Trinity	1,142,629	282,973	1,425,602	(114,965)	35,844	(6,332)	-	1,478	4,591	-	1,346,219
Tulare	17,033,292	4,977,239	22,010,530	(1,713,789)	332,471	(105,450)	-	4,048	12,575	-	20,540,387
Tuolumne	3,453,071	942,006	4,395,076	(347,427)	34,591	(19,395)	-	-	-	-	4,062,845
Ventura	32,586,228	11,615,452	44,201,681	(3,278,633)	65,107	(231,973)	(544,091)	-	-	-	40,212,091
Yolo	8,969,011	2,766,846	11,735,857	(902,409)	283,091	(60,571)	-	17,415	54,096	-	11,127,480
Yuba	4,091,329	622,526	4,713,855	(411,645)	22,652	(12,813)	-	2,330	7,238	-	4,321,616
Total:	\$ 1,889,995,632	\$ 507,773,818	\$ 2,397,769,450	\$ (190,126,592)	\$ 8,737,610	\$ (10,257,794)	\$ (2,454,478)	\$ 2,454,478	\$ 7,624,187	\$ 644,973	\$ 2,214,391,833