



Superior Court of California County of Fresno

CHAMBERS OF
GARY D. HOFF
Presiding Judge

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August 23, 2012

Hon. Brad R. Hill, Chair
Court Facilities Working Group
Via electronic mail - OCCMComments@jud.ca.gov.

Re: Fresno Superior Court SB 1407 Project – Criminal Courthouse Renovation

Dear Justice Hill and Court Facilities Working Group Members:

Thank you for this opportunity to comment regarding the future of our criminal courthouse renovation. We understand that given SB 1407 funding reductions, some projects will continue to move forward and others will continue to be delayed. **This letter is to strongly urge the Court Facilities Working Group to allow the Fresno County Main Courthouse renovation to continue as currently envisioned OR to proceed with a reduced project scope and budget.**

When considering which projects to select to proceed, only the Butte County and Riverside County projects rank higher than the renovation of the Fresno County Criminal Courthouse. We urge you to take the state of our aging Criminal Courthouse into consideration. Although it is in need of significant renovations to address access, safety, security and deferred maintenance issues to position it for continued use as a courthouse for the next 30 years, we clearly understand the state of the budget. It is our intention, at this time, to seek approval to move forward with the project with a dramatically reduced scope, and a vision of moving forward with the balance of the work once the budget climate in the State improves. To this end, the Court has re-evaluated the project scope with a focus on the essentials of the project: security, overcrowding, physical condition, and access to court services. While we would like to characterize these actions as "Outside the Box Thinking," we feel it is necessary not only for our project now and in the future to be successful, but in the best interest of the overall branch-wide SB 1407 program.

The Fresno Superior Court has one of the highest per capita criminal filings in the State; all of which are heard and/or processed in this single criminal courthouse. Our misdemeanor filings are the 8th highest in the state, exceeding that of Santa Clara and San Francisco. Our felony filings are the 9th highest in the State, exceeding that of San Francisco.

The Fresno County Criminal Courthouse renovation was categorized in the Immediate Need Priority Group and ranked third out of the forty-one SB 1407 projects. As requested, below are our responses to the criteria requested on July 23, 2012.

1. Security:

- **Jury Assembly Room and ACTION Center (After Criminal, Traffic, Infraction One-Stop Network Center for Post-Conviction Processing) have no security.** Currently there is zero security screening for either the Jury Assembly Room or the ACTION Center and access to these areas is isolated from the rest of the building. Should emergencies occur, and they do, the response time for the Sheriff is longer than it should be due to the circuitous route they must take to access these two departments. The ACTION Center works with domestic violence offenders after sentencing, as well as other criminal offenders, when they are often frustrated and angry. The lack of security in this area poses a risk to other court users and staff. Our jurors and jury staff are also left unprotected. Incidents have occurred where non-screened members of the public have entered through the Jury Office into what should be a secure corridor and were then found trying to access either the judges' or prisoner elevators.
- **In-custody defendants share a common elevator lobby and back corridors with judicial officers, staff and jurors.** Currently on criminal trial court floors B1, 2, 3, 5, 6, and 7, in-custody defendants, many of whom are violent offenders, cross paths with jurors, staff and judicial officers. Not only is this a significant safety risk, but it also creates a constant potential for a mistrial.
- **Unusually high gang influence exists in Fresno County.** Per the *Threat Assessment of July 2011*, produced by the AOC Office of Emergency Response and Security:
"the primary gang influence in and around Fresno are Asian and Hispanic criminal street gangs such as Norteños, Sureños, the Bulldogs and numerous others. There is also a population of Outlaw Motorcycle Gangs (OMG) such as the Hells Angels and Mongols which operate in and around or visit the Fresno area. In addition to these visible street gangs, Fresno County is also home to less publicly visible but no less dangerous anti-government "Constitutionalists," "sovereign citizens," white supremacists, and other far right-wing extremists. Many of these organizations are affiliated with trans-national drug cartels and/or international organized crime groups and have the ability to access sophisticated weapons and training."

The *Threat Assessment* recommends the Trial Court Facilities Standards be met to mitigate these threats. One of the suggestions is to close down the "open air plaza directly below the court building", also known as the

breezeway, to avoid the placement of explosives within the building envelope. A key design concept under consideration in the Stage 4 – Preliminary Plans phase encloses the breezeway which secures the space, improves entrance screening, and includes the Jury Assembly Room within the security screened area.

- **Children and families at risk.** For various reasons, the Dependency Courts moved from a separate facility to this criminal courthouse in 2011. In addition to cost savings, the anticipated security upgrades associated with the renovation was a major consideration in moving this department. Safety is the Court's highest priority in serving the children and families involved in more than 950 emotionally charged dependency cases each year. Although we have worked to avoid situations where children in Dependency Court come into contact with violent criminals, it is impossible to adequately and safely do so in a shared facility. It is especially hard when these dependency courtrooms share the floor with criminal courtrooms.
 - **No cameras in public areas.** The only cameras at the courthouse view the main exterior entrances, the first floor lobby, and the detention area. There are no cameras in the public areas where defendants, accusers, witnesses, families and spectators are often in close proximity to each other. In emotionally charged cases, or in instances where domestic violence or child abuse is alleged, the lack of security monitoring reduces the Court's ability to maintain safety and order effectively. Also, there are no cameras in the public elevators. This limits the Sheriff's response and their visual control is non-existent. Consequently, many altercations have occurred on the public elevators and then continued onto a floor – all without any Sheriff knowledge until it was too late. This creates volatile situations in our public corridors and outside the courtrooms. Simply stated, the lack of cameras puts the very people who are seeking protection through the Court in more danger.
 - **No electronic security measures in place.** The building lacks any electronic security measures to separate the staff area from public areas. Most staff members utilize the public elevator alongside members of the public, and doorways to enter employee areas are located in very public and visible locations. This leaves the staff and secure corridor (that often leads to judges' chambers and jury deliberation rooms) very vulnerable.
2. **Overcrowding:** Approximately 3,000 people a day enter the Criminal Courthouse through the main entry lobby.
- **The lobby size is inadequate and undersized.** The lobby is grossly undersized for a building of this size and with a high volume of traffic. Congestion occurs every morning as the public and employees enter the building and continue through screening. During peak times, long lines form outside the courthouse. (See photos in Attachment "D")

Children, victims, witnesses, jurors and even peace officers must wait in the same lines as criminal defendants or opposing parties – well beyond the watchful eyes of the deputies. For persons with disabilities, mobility limitation or certain health issues, standing in lines outside the building for extended periods of time adds physical challenges to an already emotional and uncomfortable situation. Fresno's high temperatures from June to September, and extremely cold temperatures from November to February add more stressors. Once inside, the building has minimal queuing capability and the area available for entry screening only allows for one package X-ray scanning machine and two magnetometers for public entrance. The overcrowding poses a security issue as the congestion makes it difficult for the Sheriff to visually monitor or control the crowd that forms in front of the elevators.

- **The Jury Assembly Room does not have restrooms.** Jurors must use the main lobby restrooms which are across the building breezeway. This incurs the inconvenience of walking outside into extreme temperatures, and then waiting in the security screening lines – all of which further irritates prospective jurors already annoyed with being summoned. It also compounds the congestion issue in the main lobby.

3. Physical Condition:

- **The building is 58 years old.** Most of the building systems are original and have served beyond their useful life. Full renovation work will allow for improved efficiencies by upgrading mechanical, electrical, plumbing and life safety equipment.
- **Annual maintenance costs exceed County Facility Payment.** The AOC spends more in maintenance for this building than with other similar-sized courthouses. The AOC spends approximately \$700,000 per year (not including the chiller replacement cost of \$1.3 million in 2010) to maintain the Criminal Courthouse; PLUS the County of Fresno invoices the AOC approximately \$226,000 annually for a total of \$926,000. Per the Transfer Agreement, the County Facility Payment (CFP) to the AOC which is supposed to represent the past historical costs for maintenance and repairs is \$423,321. *Therefore the AOC spends, at minimum, over half a million dollars beyond the CFP each year.*
- **Seismic conditions not to code.** Although we recognize that a seismic retrofit is in order as the building is not built to current structural standards or codes, we also understand that Fresno is in a seismic zone 3 which is relatively low when compared to the \$10 – 15 million dollars needed to accomplish the necessary seismic retro-fit. For this reason, our revised scope does not include a seismic retro-fit of the building. This is one of those project components that can be accomplished when adequate funding is restored.

- **Undersized generator means minimal emergency power backup.** The current generator does not back up enough of the building load. The current generator ONLY powers the two judges'/prisoner elevators, sump pumps, stair lights, corridor lights, B2 floor courtroom lighting (two courtrooms), 7th floor courtroom lights (five courtrooms) and the fire alarm system. In the past year there have been several power outages that left defendants in the dark within a few feet of witnesses, alleged victims, judicial officers and court staff. The emergency generator does NOT power any of the public elevators, the remaining twenty-one courtrooms, clerk's offices or critical data systems. Over the past decade, extreme technology growth has resulted in it being a significant and necessary system within the Court as both operations and the public rely heavily on electronic services. Most of these outages have occurred during the business day, resulting in all electronic systems and phone services being unavailable to the public and court staff. Due to the criticality of our technology system and the frequency of interruptions in service, the Court is currently working with OCCM/FMU on a project to relocate the entire server room and provide it with the necessary back-up power and air conditioning. This work, approximately \$1 million, was formerly a part of the overall renovation scope and is now being funded in part by the Trial Court Facilities Modification Working Group and the Court. Our renovation design and consultant team has been engaged for the design and specifications of this work. Having this work completed sooner rather than later will allow us to be in a much better position until the entire facility can be retrofitted with an emergency power system.

4. **Access to Court Services:** On a statewide basis, the average court user is confronted with a lack of understanding of court procedures. Due to the current fiscal environment, services to assist them are being cut every day. However, in Fresno County, one can add another obstacle – that of physical access, which is a hindrance to justice.

- **Major entry points are not ADA compliant.** The major public walkway on the west side of the building leading to the main courthouse entrance is not ADA accessible. This disproportionately reduces access to the Court for people in mobility devices due to disability or age, including victims of elder abuse. For these vulnerable court users, physical barriers can make the difference between seeking protection from mistreatment or dropping their cases.
- **Restrooms are not ADA compliant.** The only ADA accessible restrooms in this ten-story, 213,687 square foot courthouse are located on the 7th floor. Recently a person in a mobility device became trapped in the men's so-called "accessible" restroom. As he was seated on the toilet, his arm became pinned between the wall and the grab bar behind him. In this compromising position,

he had to wait for maintenance personnel to open the stall, pull his pants up and then remove the grab bar from the wall to release him. The gentleman was very upset and is also known as a litigious member of the public.

- **Public counters are not ADA compliant.** Most of the public counters are not ADA compliant. Employees must leave the secure work area, enter the public area of the clerk's office and assist disabled clientele in the open area. This is not secure for the employee nor does it provide adequate confidentiality to the member of the public in the mobility device. Nor does it demonstrate the respect that should be afforded equally to all of our court customers.

5. Economic Opportunity: The renovation of the Fresno County Courthouse, at either the full or reduced scope represents an excellent example of adaptive reuse of an existing facility. With the closure of our branch court facilities, we have added calendars to this facility as well as to the B.F. Sisk and the M Street courthouses, all resulting in cost savings to the Court and the AOC.

6. Project Status:

- **Preliminary Plans.** Our project is approximately 75% complete with preliminary plans and design development. The design and consultant team have gained a great deal of knowledge and understanding of the facility, the Court and the issues up to this point. This knowledge base could easily be used to complete a reduced scope project, thus reducing future soft costs related to acclimating a new or changed team in the future.

7. Court Usage:

- **Courtroom Locations and Judicial Officer Calendar Assignments.** Attachment "A" to this document represents a listing by facility of our judicial assignments. It is important to note that with the recent closure of our seven branch courthouses, we have only one remaining courtroom that is not being utilized on a day-to-day basis. This is a multi-defendant courtroom that can and will be used for other purposes as the need arises. As you may know, our Court has four authorized yet unfunded judicial officer positions. Should we be successful in realizing an appointment, our ability to place the new judge in a courtroom will be difficult. To this end, we are requesting in our reduced scope scenario to remove the County Law Library from this facility and backfill that space with a much-needed courtroom.
- **Estimated Population Served.** The estimated population served for the Fresno Superior Court is 945,711. (Source: *State of California, Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change – January 2, 2011 and 2012*) With the closure of the outlying courts, our existing facilities serve the entire county since they are located within the city limits of Fresno.

8. Type of Courthouse: The Fresno County Main Courthouse is primarily a criminal courthouse located in the County seat; the main population center.

9. Extent to which Project Solves a Court Facilities Problem: The Superior Court of California, County of Fresno officially closed seven courthouses in July and August of 2012, pursuant to GC § 68106. These closures are permanent. The immediate impact of these closures reflects on the population's access to justice; however, this issue was weighed considerably through the decision-making process. Although we had just enough courtrooms to accept judicial officers, court staff and cases from these closures, we remain mindful of our lack of available courtroom space. As previously stated and identified in Attachment "A", we at some point anticipate four additional authorized, yet unfunded judicial positions. If need be, we could accommodate all but one of these positions by consolidating calendars and manipulating related resources. One additional courtroom will be needed, thus our request to include the build-out of one additional courtroom in the facility under our modified scope.

10. Expected Operation Impact:

- One-time costs related to the revised renovation scope would be the need for furniture to occupy the rehabilitated first floor space, estimated at \$200,000. The reduced project scope adds only approximately 6,000 square feet for additional janitorial services, and this ongoing cost would be assumed by the Court.
- One-time furniture costs related to the above should be included in the project budget.

11. Courtroom and Courthouse Closures: Seven branch courthouses in Fresno County have been recently closed in compliance with GC § 68106. These closures are permanent. The closure of these facilities was based on operational needs due to state budget issues and the negative impact of funding cuts to the Court. Although we were able to assimilate judicial officers and staff into our current facilities, it leaves us with limited space for future appointments as we currently have four judicial positions approved but not funded.

12. "Outside the Box Thinking": It is our intention at this time to seek approval to move forward with the project with a dramatically reduced scope and vision of moving forward with the balance of the work once the budget climate improves in the State. To this end, the Court has re-evaluated its priorities with a focus on the essentials of the project: security, overcrowding, physical condition and access to court services. Attachment "B" to this document represents our original priorities scope for the overall renovation of the facility. Attachment "C" represents our revised priorities scope in an effort to not waste the time, energy and money that has gone

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into the project to date. We feel that this revised scope will meld well into the work that has already been completed as well as significantly reducing the cost of the project in the immediate term.

Your consideration of our proposal is greatly appreciated.

Sincerely,



Gary D. Hoff
Presiding Judge

GDH:TAW:kw

Attachments

Main Courthouse

Department	Judicial Officer
1	Hon. Dennis Peterson
2	Hon. Phillip Silva
10	Hon. Brian Alvarez
11	Vacant
12	Hon. Brant Bramer
13	Hon. David Kalemkarian
20	Hon. Alan Simpson
21	Hon. Gregory T. Fain
22	Hon. Mary Dolas
23	Hon. Brian Arax
30	Hon. Houry Sanderson
31	Hon. Alvin M. Harrell III
32	Hon. Jon Kapetan
33	Hon. Jonathan Skiles
34	Hon. Don Penner
50	Hon. Edward Sarkisian, Jr.
51	Hon. Debra Kazanjian
52	Hon. Jane Cardoza
53	Hon. Gary Orozco
54	Hon. Wayne R. Ellison
60	Hon. John Vogt
61	Hon. James Petrucelli
62	Hon. Arlan L. Harrell
70	Hon. Hilary A. Chittick
71	Hon. Gary D. Hoff
72	Hon. Jonathan Conklin
73	Hon. Kent Hamlin
74	Hon. Denise Whitehead

M Street Courthouse

Department	Judicial Officer
97A	Hon. Carlos Cabrera
97B	Hon. Dale Ikeda
97C	Hon. Jeff Bird
97D	Hon. Martin Suits

Juvenile Justice Campus

Department	Judicial Officer
99A	Hon. James A. Kelley
99B	Hon. Rosendo Pena
99C	Hon. Kimberly Gaab
99D	Hon. Timothy A. Kams

B.F. Sisk Courthouse

Department	Judicial Officer
201	Hon. Adolfo Corona
202	Hon. Kimberly Nystrom-Geist
203	Hon. D. Tyler Tharpe
204	Hon. Ronda Duncan
301	Hon. Kate Meehan
302	Hon. Jamileh Schwartzbart
303	Hon. Robert H. Oliver
304	Hon. Rosemarie McGuire
401	Hon. Dale Ikeda
402	Hon. Jeffrey Hamilton
403	Hon. Kristi Culver Kapetan
404	Hon. Carlos Cabrera
501	Hon. M. Bruce Smith
502	Hon. Donald Black
503	Hon. Mark Snauffer

North Annex Jail

Department	Judicial Officer
95	Hon. David Gottlieb
96	Hon. Glenda Allen-Hill

Assistance Received = 4.1

4 JO's Approved yet Unfunded

Attachment "B" Original Priority list for court:

1. Increase the size and functionality of the public lobby and jury assembly room (JAR)
 - a. Potentials:
 - i. Restrooms for JAR / possibly conjoined with lobby/café restrooms
 - ii. Increase capacity of JAR
 - iii. Lobby - improve flow, entry screening and elevator staging
 - iv. Cafeteria on lobby level
 - v. Children's waiting room

2. Reconfigure the 8th floor for administrative functions
 - a. Potentials:
 - i. Administration
 - ii. Fiscal
 - iii. Facilities
 - iv. Human Resources
 - v. Presiding Judge office
 - vi. Possibly Computer training room
 - vii. Possibly Court Technology

3. Add Server Room and Emergency Power for Voice/Data systems within building
 - a. Need appropriate and redundant HVAC and back up power to Server Room
 - b. Possibly locate in B-2

4. Reconfigure the B-1 and B-2
 - a. Produce larger courtrooms and courtsets (for multi-defendant or large arraignment) both floors
 - b. Move the Action center possibly to B-1 allowing for exterior access to 5-6 walk up windows from the moat
 - c. Reconfigure to increase the capacity of courtroom holding and possibly secure paths of travel to courtrooms created or kept on these levels.
 - d. Potential uses for cafeteria space (should café move to lobby level)
 - i. Secure exhibit room
 - ii. Computer training room

5. Reconfigure the 4th floor for clerk's office uses
 - a. Potentials:
 - i. Felony criminal clerk's offices
 - ii. Felony misdemeanor clerk's offices
 - iii. Exhibit room if not in B-2
 - iv. Master Calendar
 - v. Appeals and Exhibits

Attachment "C" REVISED Priority list for Court:

Increase the size and functionality of the public lobby and jury assembly room

Enclose Exterior Breezeway

- Restrooms for JAR / possibly conjoined with lobby/café restrooms
- Increase capacity of JAR
- Lobby - improve flow, entry screening and elevator staging
- Relocate Cafeteria to lobby level
- Reconfigure Children's waiting room
- Relocate ACTION Center to B-1 Level
- Complete CEQA & EIR

Improve facility Security

- Provide and install Access Control System on exterior and selected interior doors
- Increase video surveillance system & storage
- Rekey facility to curtail dependence on County Keying system
- Relocate Secure Exhibits Room to vacated B-2 Cafeteria Space or other available space

Infrastructure Improvement

- Rehabilitate Vertical Riser Closets, remove all outdated voice and data cabling and install new riser cabling
- Build out Courtroom/Courtset in existing Law Library space on 6th floor

ATTACHMENT "D" Long Entry Line and Overcrowded Lobby at the Fresno Criminal Courthouse

