

ADMINISTRATIVE OFFICE OF THE COURTS BUDGET BACKGROUND

The Judicial Council is a constitutionally-created, 21-member body charged with setting policy for the judicial branch. The Chief Justice of the Supreme Court sits on the Council and appoints 15 members.

The Administrative Office of the Courts (AOC) serves as staff to the Judicial Council, carrying out functions as it is directed by the Council.

The Judicial Council and Administrative Office of the Courts have grown in importance during the past decade as the state has taken over funding of the court system and management of court facilities from the counties, based largely on the 1997 Isenberg-Lockyer Trial Court Funding Act.

While the judicial branch remains a decentralized system, with judges elected locally, the Administrative Office of the Courts has taken on more responsibilities as court administrative functions have become more centralized. There is a natural tension between the 58 county superior courts, who control their own budgets, select presiding judges, and set some of their own policies, and the Judicial Council, which sets statewide policies and controls the overall budget of the judicial branch.

The Judicial Branch is funded by four major sources: the General Fund, fines and fees, special funds and county contributions. Judicial Branch funding is set for about \$3.8 billion in 2009-10, with about \$2.3 billion coming from the General Fund. In most cases, the Legislature allocates Judicial Branch funding to the Judicial Council, which then distributes money to the superior courts. About 92 percent of the Judicial Branch's funding goes to the superior courts.

Among the issues the Committee could consider are:

Transparency of the Judicial Branch's budget. Due to an agreement in the 2005-06 budget, much of the Judicial Branch's budget is contained in single budget items that provide little detail.

For example, the Trial Court Trust Fund, which accounts for about \$1.3 billion in the 2009-10 Judicial Branch budget, is one line item in the budget. A detailed breakdown of what that money is spent on, such as court security, information technology and staff salaries, is not available in the budget. In addition, the details of county superior court budgets are not routinely made public. The Administrative Office of the Courts has the authority to conduct routine audits, but it does not keep track of all superior court expenditures.

There also is little information in the budget regarding staffing at the Administrative Office of the Courts. Many agencies provide detail in the January release of the Governor's Budget as to positions within their headquarters, breaking down categories such as communications, general counsel and information technology services. The Administrative Office of the Courts does not. This effects the Legislature's ability to determine AOC staffing levels,

which have grown by 60 percent during the past five years. (Information on their staffing is available in the Salaries and Wages Supplement, which is typically released later in the year.)

By statute and past agreements among the three branches of government, the Judicial Branch is not subject to some of the same kind of budget transparency requirements as Executive Branch agencies. While other agencies annually submit an Operating and Expense Schedule, which lists such things as expenditures on travel and outside consultants, the Administrative Office of the Courts does not submit a similar document. While other agencies are required to report to Department of Finance and the Joint Legislative Budget Committee when they transfer money within a fund from program to program, the Administrative Office of the Courts does not.

Some changes were made this year through the budget process to increase transparency regarding the courts' budget. SBX4 13, the trailer bill related to court funding, required the Judicial Council to adopt rules allowing public access to nondeliberative or nonadjudicative courts records, including some budget, expenditure and personnel records. The statute does not require the courts to regularly provide this information during the budget process.

Judicial Branch reserves have been high. Statutes allow the Judicial Branch to retain all money allocated each year by the Legislature into its three main funds, the Trial Court Trust Fund, the Judicial Administration Efficiency and Modernization Fund, and the Trial Court Improvement Fund. During the past several years, unencumbered year-end Judicial Branch reserves have been high: \$355 million at the end of Fiscal Year 2006/07, and \$345 million at the end of 2007/08, just in the Trial Court Trust Fund.

Reserves have been used during the past two fiscal years to cover some of the General Fund cuts made to the Judicial Branch budget.

The combination of the Judicial Branch being allowed to retain unspent year-end balances and not being required to provide some details of the budget that executive branch agencies do makes it difficult to ascertain how money is spent. For example, expenditure reports indicate that between 2003/04 and 2007/08, annual appropriations from the Legislature to the courts for the Court Interpreter Program were \$28.8 million more than was actually spent on the program. It is unclear whether this money is being kept by the Administrative Office of the Courts for use in the Court Interpreter Program or whether it has been shifted to another use within the Trial Court Trust Fund.

Potential Questions

- *Please explain the AOC's process for keeping reserves in various programs, and for transferring money from program to program.*
- *How often does the AOC transfer funds from program to program?*
- *What information does the AOC receive regarding superior court budgets? Is it sufficient?*
- *Would the AOC object to providing more detailed information on an annual basis in the published budget, such as specific expenses within the divisions at AOC, a breakdown of expenses in the trial court trust fund, such as security, IT, etc., and an Operating and Expense Schedule?*

ADMINISTRATIVE OFFICE OF THE COURTS COURT CASE MANAGEMENT SYSTEM (CCMS)

California courts across the state are using antiquated information technology systems that often rely on paper documents that are costly to store and difficult to locate. A survey found that courts were using 70 different case management systems, many of which were outdated and failing. In response, the Judicial Council in 2003 decided to develop a statewide case management system that would replace old systems and connect courthouses across the state.

When completed, the Court Case Management System (CCMS) is expected to be one of the largest and most expensive information technology upgrade projects in state history. CCMS has been developed in three phases, often referred to as V2, V3 and V4.

- V2 was designed to create a new system for criminal and traffic cases. Originally begun in Ventura County, V2 is now only used in Fresno County.
- V3 is designed to create a new system for civil, probate, small claims and mental health cases. V3 is operational in Orange, San Joaquin, Ventura, San Diego, and Sacramento Counties, and one courthouse in Los Angeles County.
- V4 is designed to create a new system for family and juvenile cases, and incorporate V2 and V3 into one system. V4 is expected to be the final product.

Originally scheduled to be fully implemented by 2009, CCMS' anticipated completion date is now 2013. Two companies have been hired to do much of the preparation and deployment: BearingPoint, which developed and implemented V2, and Deloitte Consulting, which won a bid to develop and deploy V3. Deloitte's original contract was amended to include development of V4. Deloitte's original contract was valued at \$4.95 million, but the contract has been amended 96 times and the company has been paid \$226.7 million so far for its work on V3 and V4. Deloitte has won another contract to deploy V4. That contract is currently being negotiated.

Based on interviews with numerous court officials and a review of documents related to CCMS, the Committee has identified four major concerns with CCMS:

- ***The project development process has lacked some typical planning procedures.*** A 2004 report by the Legislative Analyst's Office criticized the AOC's process for developing CCMS, saying then that the AOC had no estimate of the project's total cost, had not done a cost-benefit analysis to determine that a statewide IT system was appropriate, had not seriously considered other alternatives, had not developed a risk mitigation plan, which is designed to plan for disruptions to services during project implementation, and had not given the AOC's project oversight committee enough information and authority to properly oversee the project.

The AOC entered into a contract to develop V4 before creating a business plan for the project, despite advice in a 2006 audit for the AOV by the consulting firm KPMG. The KPMG audit recommended that the AOC "develop a formal, CCMS business plan that documents measurable initiative-wide benefits, critical path risks,

dependencies, alternatives and associated costs." A 2007 report by a company called Gartner is referred to by the AOC as the CCMS business plan, but it is limited to describing problems with the current court IT systems and benefits of CCMS. The report does not analyze risks, alternatives or costs of CCMS.

- ***The AOC underestimated the cost of the project, and the final price tag remains unclear.*** The total price tag for CCMS, including how much General Fund money has been spent so far and how much will be needed, has not been clearly presented. An AOC document describing CCMS produced in August indicates the total project may cost \$1.2 billion. An AOC spokesman, however, recently told the *Daily Journal* newspaper that the project will cost \$1.4 billion in an article in which the newspaper suggested internal AOC documents indicate it may cost \$1.75 billion. Yearly spending estimates provided to the Legislature by the AOC have been incorrect. For example, a 2006 report to the Legislature estimated that \$82 million would be spent on CCMS in FY 06/07. A 2007 report with the actual expense for that fiscal year showed they spent \$123 million – a difference of more than \$40 million.

Original estimates for the project were much lower: A 2004 document suggests the AOC believed the project would cost \$260.2 million.

Total cost estimates given by the AOC do not include the costs that will be incurred by law enforcement and other agencies to ensure their computer systems communicate with CCMS. These costs are unknown, and are causing concern among law enforcement agencies that have been largely uninvolved in the CCMS development process.

How much General Fund money will be needed to complete the project has not been presented to the Legislature.

- ***The AOC has provided limited information regarding the project.*** Since 2006, the AOC has provided the Legislature with annual reports regarding CCMS, but the reports lack critical information. The reports have not provided information on the total costs of the project, making it difficult to determine how much General Fund money has been spent on the project. Charts indicating how much money has been encumbered include one line item described as "General Fund," and several other line items that also include some General Fund monies, such as the courts' Modernization Fund and the Trial Court Trust Fund. In addition, the reports list accomplishments but do not provide discussion of the challenges and problems the courts have faced in implementing the project. This is in contrast to reports that executive branch agencies provide the state Chief Information Officer, which provide descriptions of current and upcoming problems, and how the agency is planning to respond.
- ***There are concerns about whether the system will function effectively.*** Some courts that have implemented the V3 system have encountered problems that raise

questions about the system's eventual effectiveness. A key complaint is that the system is designed to collect so much data that it may not perform effectively.

An AOC report from this summer detailing interviews with Sacramento County court judges notes that some judges believed the V3 system has required more staffing and is less efficient than the court's old IT system.

The Judicial Council and AOC note that with many courts facing failing IT systems, a major project such as CCMS was necessary. They also explain that current processes, such as issuing arrest warrants, are cumbersome because they are not done completely electronically. CCMS would allow actions such as arrest warrants to be transmitted immediately to all law enforcement agencies in the state.

They note that the former state Chief Information Officer, Clark Kelso, wrote in support of the project and disagreed with the LAO's analysis in 2004, arguing that the LAO used the executive branch IT process to measure how the AOC was conducting its process, which was unfair. Kelso suggested his preliminary assessment of the CCMS process was that the court was "aggressively managing its major IT projects."

The Judicial Council has retained an accounting firm, Sjoberg Evashenk Consulting, which has audited some of the CCMS project and is serving as an independent evaluator on the V4 project. The consulting firm is providing the Judicial Council with reviews of how the project is progressing.

In addition, the Judicial Council has prepared testimonials from several judges and court executives who are using the V3 system successfully. The CEOs of the Orange County Superior Court and San Joaquin County Superior Court, along with judges from the Ventura County Superior Court and San Diego Superior Court all say that V3 is working effectively.

Finally, the Judicial Council and AOC say that both the Department of Finance and Legislature have understood for multiple years that there was no overall funding plan for CCMS, and that the courts would work to fund the project on a year-to-year basis with existing funds. The AOC last year suggested in budget committee hearings that they were considering issuing a lease revenue bond to pay for CCMS, but they never presented a formal proposal to the Legislature.

Potential Questions

- *What is the total cost of CCMS?*
- *How much has CCMS cost the general fund so far, and how much general fund support is needed to complete CCMS?*
- *Did the Judicial Council and AOC begin development of V4 without correcting problems with V2 and V3?*
- *Did the Judicial Council and AOC begin development of V4 without a cost-benefit analysis and a thorough analysis of other alternatives?*
- *How much will it cost law enforcement and other agencies to connect with CCMS?*
- *Do you have law enforcement support for the project?*

- *Because Sacramento County Superior Court is the only court using the full V3 system, and because Sacramento is experiencing difficulties, shouldn't the V# system be perfected before beginning V4?*
- *How many RFPs have been issued for V4, and why wasn't the development of V4 put out to bid?*
- *Given the current budget constraints, what is the revised plan for CCMS deployment?*

ADMINISTRATIVE OFFICE OF THE COURTS INCREASE IN STAFFING

Between Fiscal Year 2003/04 and Fiscal Year 2008/09, the number of authorized positions for the Administrative Office of the Courts grew from 579.4 to 924.3, an increase of 60 percent. See the attached spreadsheet for detailed information.

AOC personnel work in 11 different Divisions. Here is a quick description of each division and the increase of staff during that five-year period:

- **Executive Division.** (Grew from 20.8 employees to 32, 54 percent increase). Includes the Director's Office, executives for the appellate courts, and Emergency Response and Planning.
- **General Counsel.** (Grew from 52.5 employees to 77.1, 47 percent increase). Provides legal services to the Chief Justice, the Judicial Counsel and the courts.
- **Governmental Affairs.** (Remained the same with 13 employees, no change). Acts as a liaison between the courts and the legislative and executive branches.
- **Center for Families, Children and Courts.** (Grew from 53 employees to 72 employees, 36 percent increase). Provides services to courts dealing with family, juvenile, child support, child custody, child visitation and domestic violence law.
- **Judicial Education and Research.** (Grew from 85.5 employees to 93.5 employees, 9 percent increase). Provides education curricula for judges, court staff and AOC staff.
- **Executive Office Programs.** (Grew from 49.6 employees to 82.7, 67 percent). Staff to the Judicial Council, including planning, research, communications, grant administration.
- **Regional Offices.** (Grew from 12 employees to 142, 1083 percent increase). Three offices – in Sacramento, San Francisco and Burbank – provide services to the courts, such as technology and human resources.
- **Finance Division.** (Grew from 98 employees to 114, 16 percent increase). Provides budget planning, accounting and contract management.
- **Human Resources Division** (Grew from 67.5 employees to 60, 11 percent decrease). Provides human resources services, such as recruitment, classification and compensation.
- **Information Services Division.** (Grew from 83 employees to 133, 60 percent increase). Coordinates court technology projects.
- **Judicial Branch Facility Program.** (Grew from 44.5 employees to 105, 136 percent increase). Coordinates maintenance of state courthouses and provides planning for new facilities.

AOC staff growth should not be unexpected. Due to the restructuring of court financing approved in 1997, the AOC has taken on a greater role in trial court operations, particularly in issues like facilities management and information technology. Some of the roles the AOC has assumed were performed by county governments in the past, including areas such as legal counsel and human resources.

However, there are areas of staff growth that invite more scrutiny.

Priorities. Staff growth at the AOC could be looked at in terms of increasing bureaucracy in San Francisco versus providing more direct court services to the public.

For example, the Office of Communications within the Executive Office Programs Division has grown from 7 positions in 2003/04 to 22.5 in 2008/09.

The Center for Families, Children and the Courts has grown by 36 percent and now employs 72 people and consumes \$8.7 million in personnel costs; while at the same time, the AOC has been sued in Sacramento for failing to provide sufficient funding to attorneys who represent children in dependency cases. Attorneys in Sacramento carry as many as 395 cases at a time, more than double the 188-caseload standard set by the Judicial Council.

The Finance Division lists 16 staff in its Internal Audits office, which is responsible for auditing all 58 county superior courts. The Committee may question whether more resources should be placed into this office to ensure that courts are routinely audited.

Outcomes. The Finance Division, charged with distributing nearly \$4 billion in funds to various courts and court programs, includes 114 people. Compare that number to the state Department of Education, which distributes \$58 billion to local schools and educational programs with a finance staff of 222. The AOC has one financial staffer for every \$35 million, versus the Department of Education, which has one financial staffer for every \$261 million. How has growth in the Finance Division led to better financial outcomes?

The Office of Research and Office of Innovative and Effective Practices grew from 25.6 staff to 32.2. The Committee could question the outcomes produced by this unit. The AOC created a new unit, called the Enhanced Collections Unit, to improve the courts' effort at collecting fines and fees. How much additional funding has the unit brought in? Much of the growth in the Regional Offices has come because of the Phoenix Project, a new information technology system designed to improve the courts' financial services. The project employs 101 employees at the Regional Office in Sacramento – are there new efficiencies and reduced costs due to this IT project, or has it added costs?

Potential Questions

- *Why are there 22 people in your Office of Communications, and what do they do?*
- *Given the layoffs occurring in courts around the state, has there been any effort at the AOC to shift more resources from San Francisco to the courts?*
- *Describe the duties of the Center for Families, Children and Courts, and has there been any discussion of reducing staffing there to increase staffing in family courts?*
- *Will the AOC staff continue to grow? What are your staffing projections?*
- *Should AOC shift more resources into Internal Audit services? Is 16 people in that office enough?*
- *Has the Phoenix IT project led to increased staffing and costs?*
- *What are the duties of the Office of Innovative and Effective Practices, and what has this Office accomplished?*