

JUDICIAL

Item 0250 from the General
Fund and the State Transportation Fund

Budget p. LJE 8

| | |
|---|--------------|
| Requested 1986-87 | \$82,191,000 |
| Estimated 1985-86..... | 71,123,000 |
| Actual 1984-85 | 54,330,000 |
| Requested increase \$11,068,000 (+15.6 percent) | |
| Total recommended reduction | 1,187,790 |
| Recommendation pending | 1,661,169 |

1986-87 FUNDING BY ITEM AND SOURCE

| Item—Description | Fund | Amount |
|---------------------------------------|----------------|--------------|
| 0250-001-001—Support | General | \$81,852,000 |
| 0250-001-044—Support/Local Assistance | Transportation | 61,000 |
| 0250-101-001—Local Assistance | General | 243,000 |
| Reimbursements | — | 35,000 |
| Total, State Funds | | \$82,191,000 |

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONSAnalysis
page

- Supreme Court Research Attorneys. Reduce Item 0250-001-001 by \$219,185.** Recommend deletion of four research attorney positions which are not justified on the basis of demonstrated workload. 10
- Appointed Counsel Fees. Reduce Item 0250-001-001 by \$758,000.** Recommend deletion of \$758,000 to eliminate overbudgeting for appointed counsel fees in the courts of appeal. 12
- Automation Proposal.** Withhold recommendation on \$1,661,169 proposed for a data collection pilot project, pending the receipt of a report on project implementation and costs. 13
- Technical Budgeting Recommendation. Reduce Item 0250-001-001 by \$98,127.** Recommend reduction of \$98,127 requested for facilities to more accurately reflect facilities needs. 14
- Commission on Judicial Performance. Reduce Item 0250-001-001 by \$112,478.** Recommend deletion of one investigator and one secretarial position that are not justified on a workload basis. 15

GENERAL PROGRAM STATEMENT

The California Constitution vests the state judicial power in the Supreme Court, the courts of appeal, and the superior, municipal, and justice courts. The Supreme Court and courts of appeal hear appeals from the trial courts, and have original jurisdiction over certain writs, such as habeas corpus.

JUDICIAL—Continued

The Supreme Court and the six courts of appeal are entirely state supported. The remaining courts are supported primarily by the counties, although the state (1) pays 88 percent to 93 percent of each superior court judge's salary, (2) provides an annual \$60,000 block grant for most superior court judgeships created after January 1, 1973, and (3) pays the employer's contribution toward health and retirement benefits for each superior and municipal court judge.

Fines, fees, and forfeitures collected by the trial courts are deposited in each county's general fund, and then distributed to the cities, the county, districts, and state special funds, as required by law. Fees collected by the courts of appeal and the Supreme Court are deposited in the state's General Fund.

The Chief Justice of the Supreme Court serves as the chairperson of the Judicial Council, and is responsible for equalizing the work of judges and expediting judicial business.

Judicial Council

The Judicial Council consists of the Chief Justice, one other Supreme Court justice, three court of appeal justices, five superior court judges, three municipal court judges, two justice court judges, four members of the State Bar and one member of each house of the Legislature. The council is staffed by the Administrative Office of the Courts. As required by the State Constitution, the council seeks to improve the administration of justice by (1) surveying judicial business, (2) making appropriate recommendations to the courts, the Governor, and the Legislature, and (3) adopting rules for court administration, practice, and procedure. The council also operates the Center for Judicial Education and Research, which provides education for both newly appointed and continuing judges.

Commission on Judicial Performance

The Commission on Judicial Performance receives, investigates, holds hearings on, and makes recommendations to the Supreme Court on complaints relating to the qualifications, competency, and conduct of the judiciary. It may privately admonish a judge, or recommend to the Supreme Court that a judge be retired for disability, censured, or removed for any of the causes set forth in the State Constitution.

The Legislature has authorized 754.8 positions for state judicial functions in the current year.

OVERVIEW OF THE BUDGET REQUEST

The budget proposes expenditures totaling \$82,191,000 from the General Fund (\$82,095,000), the State Transportation Fund (\$61,000), and reimbursements (\$35,000) for the support of judicial functions in 1986-87. This is an increase of \$11,068,000, or 15.6 percent, over current-year estimated expenditures.

Table 1 shows the budget program for judicial functions in the prior, current, and budget years.

Table 1
State Judicial Functions
Budget Summary
1984-85 through 1986-87
(dollars in thousands)

| | <i>Actual</i> | <i>Est.</i> | <i>Prop.</i> | <i>Percent</i> |
|--|----------------|----------------|----------------|--------------------|
| | <i>1984-85</i> | <i>1985-86</i> | <i>1986-87</i> | <i>Change from</i> |
| | | | | <i>1985-87</i> |
| <i>Program Expenditures</i> | | | | |
| Supreme Court..... | \$7,810 | \$8,310 | \$11,147 | 34.1% |
| Courts of Appeal | 38,151 | 48,560 | 55,308 | 13.9 |
| Judicial Council | 7,963 | 13,657 | 14,866 | 8.9 |
| Commission on Judicial Performance | 275 | 353 | 627 | 77.6 |
| Local Assistance..... | 131 | 243 | 243 | 0.0 |
| Totals | \$54,330 | \$71,123 | \$82,191 | 15.6% |
| <i>Personnel-years</i> | | | | |
| Supreme Court..... | 92.9 | 103.2 | 109.7 | 6.3% |
| Courts of Appeal | 486.0 | 523.2 | 540.2 | 3.2 |
| Judicial Council | 113.3 | 106.1 | 120.1 | 13.2 |
| Commission on Judicial Performance | 4.3 | 5.3 | 9.3 | 75.5 |
| Totals | 696.5 | 737.8 | 779.3 | 5.6% |

Supreme Court. The budget proposes an appropriation of \$11,147,000 from the General Fund for support of the Supreme Court in 1986-87. This is \$2,837,000, or about 34 percent, above estimated current-year expenditures. Of this amount, \$2,019,000 is requested to cover the increased cost of appointed counsel in criminal appeals. An additional \$219,000 is requested to add four research attorneys. (These increases are discussed below.) The court also proposes \$98,000 for 2.5 technical and clerical positions. The remainder of the proposed increase would be used primarily for salary and staff benefit increases.

Courts of Appeal. For support of the six courts of appeal, the budget proposes expenditures of \$55,308,000 in 1986-87. This is an increase of \$6,748,000, or about 14 percent, over estimated current-year expenditures for these courts. Here again, much of the growth (\$2,294,000) is due to the increased cost of appointed counsel in criminal appeals. The courts also are requesting funds for 19.5 new positions, including central staff attorneys, court clerks, secretaries, and other positions. The balance is due to salary, staff benefit and operating expense increases.

Judicial Council. The budget proposes \$14,866,000 for support of the Judicial Council in 1986-87, including \$14,770,000 from the General Fund, \$61,000 from the State Transportation Fund, and \$35,000 in reimbursements. The proposed amount is \$1,209,000, or 8.9 percent, above the estimated level of expenditures in 1985-86. The budget includes funds for the second phase of an automated data and word processing system for the courts (\$2,533,000). In addition, the proposed increase would fund a proposal to implement a new data collection pilot project (\$1,661,000). The budget increase reflects these costs as well as other staff and operating expense increases, and is offset partially by a reduction of \$4 million which reflects one-time expenses in the current year.

Commission on Judicial Performance. The budget requests \$627,000 for the Commission on Judicial Performance, an increase of \$274,000, or 78 percent, above current-year expenditures. This increase would be used primarily to support four new staff positions, at a total cost of \$245,000.

JUDICIAL—Continued**No Funds to Implement AB 19 (State Funding of the Trial Courts)**

Last year, the Legislature enacted the Trial Court Funding Act (Ch 1607/85—AB 19, Robinson), opening the way for a major restructuring of court financing in California. Generally, the measure authorizes the state to assume the costs and revenues associated with county trial courts, at each county's option. *The provisions of the act relating to court financing, however, do not become operative until the effective date of a statute appropriating funds to implement them.*

The Governor's Budget for 1986-87 does *not* contain an appropriation to implement the act.

AB 19:

1. Authorizes block grants to counties ranging from \$469,435 to \$495,895 annually per judicial position authorized for the superior and municipal courts.

2. Requires a county wishing to receive these payments to (a) transfer to the state specified revenues received by the county from court fees, fines, forfeitures and penalties, (b) waive various claims for reimbursement of costs attributable to state-mandated local programs, and (c) forego all \$60,000 block grants from the state for superior court judgeships.

3. Requires the state to reimburse cities for any revenue loss that results from a county's decision to receive block grants in lieu of the fine, forfeiture, and penalty revenues they now collect. Under current law, cities receive a portion of these revenues.

4. Requires the state to reimburse those counties receiving block grants for most of the costs they incur for municipal court judges' salaries. This amount would be in addition to the block grant.

5. Requires a county receiving block grants to spend on court operations an amount that is at least as much as the amount it receives from the state.

6. Requires the Controller to audit county expenditure and revenue reports, adopt appropriate regulations, and report certain information to the Legislature.

In addition, the measure established up to 38 superior court judgeships in various counties. The provisions relating to the new judgeships will become operative on July 1, 1986.

Fiscal Effect. If legislation is enacted appropriating funds to implement this act, we estimate that the *net* cost to the state's General Fund will be a maximum of \$378 million in 1986-87, as shown in Table 2. The maximum amount would be reduced by an unknown amount to the extent various claims for reimbursement of state-mandated local program costs are waived by participating counties. In subsequent years state General Fund costs would increase beyond the 1986-87 level because the act provides that the block grants and the state's share of the judges' salaries are to grow by the percentage increase in salaries provided to state employees.

Table 2
Impact of Chapter 1607 on the State General Fund,
Assuming Funds Are Appropriated
to Implement the Measure
1986-87
(in millions)

| | <i>Costs</i> | <i>Savings</i> | <i>Revenues</i> | <i>Net Impact</i> |
|--|--------------|------------------|-----------------|-------------------|
| Block grants | \$728 | — | — | \$728 |
| Reimbursement of cities for lost revenues | 237 | — | — | 237 |
| Share of judges' salaries ^a | 37 | — | — | 37 |
| Waiver of \$60,000 block grants..... | — | -\$13 | — | -13 |
| Elimination of reimbursement for existing state-mandated local programs..... | — | -13 ^b | — | -13 |
| Court fee revenues | — | — | \$119 | -119 |
| County fine revenues | — | — | 242 | -242 |
| City fine revenues | — | — | 237 | -237 |
| Totals..... | \$1,002 | -\$26 | \$598 | \$378 |

^a Includes salary and benefit costs for existing judges as well as 38 new superior court judges.

^b The state will realize unknown, but probably major, additional savings due to provisions of the act requiring participating counties to waive various unfunded claims for reimbursement of costs under state-mandated local programs.

Until such time as an appropriation is made to implement the Trial Court Funding Act, the 38 new judgeships authorized by AB 19 will be funded according to the provisions of existing law.

ANALYSIS AND RECOMMENDATIONS

SUPREME COURT

Appointed Counsel Fees Increase

The Supreme Court requests \$3,622,000 for payments to attorneys appointed to represent indigent criminal appellants in 1986-87. This represents an increase of \$2,019,000, or 126 percent, above the estimated current-year expenditure level shown in the Governor's Budget.

Although the Governor's budget specifies that the court will spend \$1,603,000 during the current year, the Judicial Council indicates that the court will actually spend about \$2,500,000, if present expenditure trends continue. The Judicial Council advises the additional current-year costs will be financed in part from an expected surplus in the amount available for counsel appointed by the courts of appeal. Based on the Judicial Council's revised estimates of current-year expenditures, the amount budgeted for appointed counsel fees in 1986-87 will be about 45 percent greater than the current-year amount.

The Judicial Council advises that the large growth in the budget is related to services provided to the court pursuant to a contract with the California Appellate Project (CAP). CAP provides recruiting and oversight services in order to ensure the availability of qualified counsel and improve the quality of legal representation provided to indigents whose cases are before the Supreme Court. The Judicial Council advises that the rise in costs is occurring because cases are being processed in a more timely manner, and suggests that this has helped to reduce the court's backlog.

Although the Judicial Council was unable to provide us with data on the appointed counsel caseload and costs for the current year, the amount budgeted for this purpose in 1986-87 is consistent with projections of caseload which staff provided to us. On this basis, we recommend approval of the requested amount.

JUDICIAL—Continued**Supreme Court Research Attorneys**

We recommend deletion of funding for four research attorney positions which were not approved by the Legislature in 1985 and which still are not justified on the basis of workload, for a General Fund savings of \$219,185 (Item 0250-001-001).

The budget proposes to add four research attorneys to the Supreme Court, at a General Fund cost of \$219,185. These same positions were requested by the court in the 1985 Budget Bill. The Legislature deleted funding for these positions, as we recommended in our *Analysis of the 1985-86 Budget Bill*.

Background. Last year, the Supreme Court requested seven additional positions in order to increase to *five* the number of research attorneys assigned to each justice. These positions would have augmented the existing staff of 43 attorneys and 28 law student interns that provide legal research. Of the 48 existing staff, 28 were assigned to individual justices (4 per justice), 12 were assigned to central staff, 2 were used for writs, and 1 acted as special assistant to the Chief Justice.

According to the Supreme Court, the additional research attorneys were needed because of: (1) increased workload, including an increase in the total number of filings, and increases in the number of petitions for hearing granted by the court (hearings may be granted after the disposition of cases by the courts of appeal), (2) problems resulting from excessive reliance on law student externs to complete judicial work, and (3) new workload resulting from Proposition 32 (State Constitutional Amendment 29), an initiative approved by the voters at the November 1984 election.

In the *Analysis of the 1985 Budget Bill*, we recommended that the Legislature delete the requested positions. We found that if the additional positions were added, the number of transactions per attorney would *decrease* significantly. In fact, the workload per attorney in 1985-86 would be lower than in any of the previous five years.

We also questioned whether hiring additional research attorneys at the law clerk level, as the budget proposed, would have a significant impact on a problem which the court indicated it wished to address—reliance on inexperienced law student externs for legal research.

Finally, we noted that while SCA 29 was pending before the Legislature, the Judicial Council consistently maintained the measure would *improve* the court's ability to manage its workload, and it advised the Legislature that any costs resulting from the measure could be absorbed.

The Legislature approved three of the requested seven research attorney positions, and denied funding for the other four.

1986-87 Proposal. The court now proposes to establish in 1986-87 the four positions which were deleted by the Legislature last year. The court bases its request on the same considerations cited last year, updated to reflect the most recent workload data available.

Analysis. Once again, our analysis indicates that the positions are not justified on a workload basis. As shown in Table 3, if the positions are approved, the workload per attorney in 1986-87 will be lower than in any of the last five years. Accordingly, we recommend that the Legislature delete funding of the four additional research attorney positions, for a General Fund savings of \$219,185.

Table 3
Supreme Court
Workload Measures for Attorneys Assigned to Justices
1981-82 through 1986-87

| Workload | 1981-82 | 1982-83 | 1983-84 | 1984-85 | Est. 1985-86 | Prop. 1986-87 | Percentage |
|--|---------|---------|---------|---------|-----------------|------------------|---------------------------|
| | | | | | | | Change from 1985-86 |
| Filings | 4,056 | 3,856 | 4,024 | 4,370 | 4,420 | 4,480 | 1.4% |
| Petitions for hearing | 3,338 | 3,205 | 3,244 | 3,284 | 3,336 | 3,355 | 0.6 |
| Petitions for hearing granted | 280 | 286 | 318 | 318 | 339 | 356 | 5.0 |
| Staff | | | | | | | |
| Attorneys..... | 22 | 28 | 28 | 28 | 31 | 35 | 12.9% |
| Productivity | | | | | | | |
| Filings/attorney..... | 184.4 | 137.7 | 143.7 | 156.1 | 142.6 | 128.0 | -10.2% |
| Petitions for hearing/attorney..... | 151.7 | 114.5 | 115.9 | 117.3 | 107.6 | 95.9 | -10.9 |
| Petitions for hearing granted/attorney | 12.7 | 10.2 | 11.4 | 11.4 | 10.9 | 10.2 | -6.4 |

COURTS OF APPEAL

Appointed Counsel: Case Complexity and Costs

The Supplemental Report of the 1985 Budget Act required the Judicial Council and the State Public Defender (SPD) to jointly (1) develop measures which would enable the Legislature to determine and compare the complexity of cases handled by court-appointed attorneys and the SPD, and (2) incorporate these measures into their respective case reporting forms and their automated systems for tracking these cases. The language also required that the two agencies report to the Legislature by January 1, 1986, certain information called for by the *Supplemental Report of the 1983 Budget Act*.

Case Complexity. In order to collect detailed information on case complexity, the offices developed a reporting format which breaks down the steps involved in handling an appeal into various functions. Among the functions which the reporting format identifies are communications with appellant, length of record, and time required to review the record. The form also requests information about the hours spent on issues, motions, writs, and briefs. Time spent for travel, oral arguments, and other services are also identified on the form as reimbursable functions.

Attorneys must submit a form providing this information whenever they request interim or final compensation. These requests are then reviewed by the court and forwarded to the Judicial Council for payment.

Separate forms were developed for the Supreme Court. These forms request information about the number of briefs, motions, and petitions filed, the total pages in the record, and the amount of time spent reviewing the record. The forms also request information about the amount of time spent on oral argument, including preparation, and on other functions related to both automatic appeals and cases on review. An additional form was developed to gather data about the nonprofit law offices that contract with the courts.

The Judicial Council report does not provide actual data on case complexity, but it indicates that compensation forms will provide this data in the future. The Council states that it will submit an initial report on the findings yielded by the case complexity data covering the six-month period from January 1, 1986, to June 30, 1986, once the data becomes available.

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Cost. The Judicial Council report also contains data on the costs of appointed counsel. This data was collected between November 1, 1983, and October 31, 1984. The findings presented in the report are based on 6,021 completed court of appeals cases that reflected full compensation. For the Supreme Court, only 26 claims reflected full compensation.

The data indicates that the courts of appeal pay about 78 percent of the average compensation claimed, while the Supreme Court pays about 98 percent of the amount requested on the average. However, the Judicial Council suggests that the reasons for this difference are unclear and that the data on the Supreme Court cases may not be representative of costs incurred by appointed counsel, because it is based on a very small sample of cases.

The findings regarding cost that emerge from the appointed counsel study are summarized in Table 4.

Table 4
Appointed Counsel Workload and Cost
November 1983 through October 1984

| <i>Hours/Costs Per Case</i> | <i>Courts of Appeal</i> | <i>Supreme Court</i> |
|--------------------------------------|-------------------------|----------------------|
| Average hours claimed..... | 35.85 | 54.19 |
| Average hours approved: | | |
| Number of hours | 28.25 | 54.12 |
| Percent of hours claimed | 79% | 99.9% |
| Average expenses claimed | \$57.10 | \$148.55 |
| Average expenses approved: | | |
| Amount..... | \$47.18 | \$135.77 |
| Percent of expenses claimed | 83% | 91% |
| Average compensation claimed..... | \$1,525.63 | \$2,457.81 |
| Average compensation approved: | | |
| Amount..... | \$1,180.30 | \$2,412.39 |
| Percent of compensation claimed..... | 78% | 98% |

Appointed Counsel Fees Overbudgeted

We recommend a General Fund reduction of \$758,000 to correct for overbudgeting of appointed counsel fees (Item 0250-001-001).

The budget proposes a total of \$14,614,000 for payment to court-appointed counsel to handle the cases of indigent criminal appellants in the courts of appeal. Although the Governor's Budget suggests that this is an increase of \$2,294,000, or about 15 percent, above estimated current-year expenditures, information provided to us by the Judicial Council indicates that the increase will be more than this amount. At the time this analysis was written, the Judicial Council advised that it expected that not all of the funds budgeted for these appointed counsel fees in the current year would be needed for this purpose. However, it was unable to provide us with a more accurate estimate of current-year costs.

The requested funds will pay for two types of legal services. Private appointed counsel will receive \$50 per hour for direct legal representation. In addition, the Judicial Council will contract for various administrative and oversight services, such as recruiting of private counsel, case review, assistance and consultation, billing certification, and direct representation in a small number of cases.

The requested increase in the budget year primarily results from in-

creases in payments to contract administrators. The counsel proposes to increase payment for oversight services from \$50 to \$60 per hour, and to allow for an increase in the amount of case review and consultative services provided to less experienced private counsel.

Our review of the council's proposal indicates that the amount requested for appointed counsel services is overbudgeted. According to the report submitted by the Judicial Council pursuant to the *Supplemental Report of the 1985 Budget Act*, the average time spent per case by private appointed counsel is 28.25 hours. The budget request, however, assumes that the average will be 32 hours of attorney time per case.

The Judicial Council indicates that the information in the report is more current than the data on which its budget request is based, and agrees that 28.25 hours per case is a reasonably accurate estimate of time spent. The Judicial Council also advises us, however, that it neglected to request funds for expenses to be incurred in 1986-87. The council states that it will need an additional \$47.18 per case, or \$255,000 for this purpose.

Accordingly, we recommend deletion of \$758,000 requested from the General Fund for appointed counsel.

More Information Needed on Automation Proposal

We withhold recommendation on \$1,661,000 requested from the General Fund to test the feasibility of implementing an automated data collection system in the trial courts, pending the receipt of more information (Item 0250-001-001).

The budget requests \$1,661,000 from the General Fund to implement a pilot project to test an automated data collection system in 25 trial courts during the budget year. Of the amount budgeted, \$1,360,000 is requested for equipment, \$175,000 is for consulting and programming services, and about \$126,000 is for two limited-term positions and related expenses.

The Judicial Council advises us that the system is designed to (1) provide more current and expanded data to improve the timeliness of annual reports, (2) improve the ability of the Administrative Office of the Courts (AOC) to analyze the effects of legislation, (3) provide courts with the ability to more easily obtain, analyze, and compare data, and (4) streamline the data collection process by removing many redundant steps inherent in the present system.

According to the Judicial Council, data collection in the state's 226 trial courts is not done in a uniform manner. Some tally data manually, others have the capacity for automated data entry, while still others use a combination of both methods.

The Judicial Council is testing the new system in four trial courts during the current year. It is financing the test, which could cost as much as \$200,000, by redirecting funds budgeted for other purposes. At the time this analysis was prepared, the results from the preliminary testing were not available.

We believe that the proposed system has the potential to improve the data collection capabilities of the courts. Nonetheless, we question the wisdom of proceeding with a pilot project of this magnitude before the results of the preliminary testing have been evaluated. Furthermore, we believe the Legislature needs additional information before it can evaluate the Judicial Council's request for \$1.7 million. Accordingly, we withhold recommendation on the amount requested pending receipt of the following information:

1. Results of the preliminary testing conducted during the current year.

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2. Identification of one-time and ongoing costs for all phases of the project, and an estimate of the total project costs.

3. An identification of the savings that will result from implementation of this system, improvements in the efficiency of data entry and compilation activities, expected staff reductions, and related savings.

4. A plan detailing how a statewide data collection system would be financed, and how the costs would be shared between the state and local governments.

5. Identification of the tasks that must be accomplished to fully implement the system, and a time schedule for each phase of the project.

Technical Budgeting Issues

We recommend that the General Fund appropriation be reduced by \$98,127 (Item 0250-001-001) to eliminate overbudgeting as follows:

- \$15,233 requested to expand facilities for the Second District in anticipation that the Legislature will approve additional judgeships. The request is premature.
- \$55,122 requested for expanded judicial facilities in Division Two of the Fourth District. That also is premature. This request assumes that the Legislature will approve additional judgeships for these divisions. Moreover, the funds were requested in anticipation of a capital outlay proposal that has since been dropped.
- \$27,772 requested for police and space management services, and for renovation of existing space, which exceed actual facilities needs.

Report on Administrative Assistants

The Supplemental Report of the 1985 Budget Act required the Judicial Council to report by December 15, 1985, on the use of administrative assistants within the courts of appeal. The Legislature directed the Judicial Council to include in the report information on the court's progress in filling these positions, a description of the various duties of administrative assistants, and an analysis of whether all or part of these duties should be carried out under the direction of the clerk of the court or the administrative presiding justice of the court.

The Judicial Council reports that the administrative assistant positions are filled in each district where they have been approved and budgeted. Tasks of administrative assistants include personnel, business services, and fiscal duties, as well as planning, scheduling and other general activities. The report also indicates that administrative assistants report either to the administrative presiding justice or the clerk of the court, but never to both. The report finds that in large districts, administrative assistants usually report to the Administrative Presiding Justice. In smaller courts, these positions usually report to the clerk of the court.

JUDICIAL COUNCIL**Report on Post Traumatic Stress Disorder Program**

Resolution Chapter 84, Statutes of 1984 requires the Center for Judicial Education and Research (CJER) to add a component on Post Traumatic Stress Disorders (PTSD) among Vietnam veterans to its judicial educational program. The measure requires Judicial Council to report to the Legislature on this program by January 1, 1986.

The report, which was submitted in January, provides an implementa-

tion plan and identifies the resources CJER estimates it needs to continue PTSD education in the future. The CJER indicates that the program will have three main components: (1) continuing judicial education programs open to all judges, (2) the development of extensive source materials for use in the courtroom by judges who are dealing with PTSD issues, and (3) presentations at judicial conferences. The center also plans to make videotapes of the presentations available for use in local judicial education programs.

Implementation of the program began in late 1985 with the introduction of PTSD to judges at municipal and justice court conferences. The topic will also be on the agenda prepared for a 1986 conference to be attended by superior court judges.

The CJER indicates that early implementation efforts will identify consultants for the development of PTSD presentations. These efforts also will develop outlines, and videotapes. Videotapes of presentations will be reviewed and edited early in 1987. By June, 1987, the commission plans to distribute videotapes, draft a final project report, and publish materials on PTSD.

In 1986-87, the commission plans to spend about \$117,000 on this project, of which about \$79,000 will be used to pay salaries and benefits for the project attorney and other support staff. The budget proposed for the project also includes about \$5,000 for travel, \$14,000 for consultant services, and \$19,000 for operating expenses. (The Judicial Council indicates that these staff resources also will be used to develop a judicial education component dealing with alleged sex abuse victims, as encouraged by Ch 1172/85—SB 301, Lockyer).

The report indicates that the Judicial Council will report to the Legislature on its progress in implementing this program in June and December of 1986, and in June, 1987.

COMMISSION ON JUDICIAL PERFORMANCE

Workload Does Not Justify Two of the Four New Positions Requested for the Commission

We recommend deletion of one investigator position plus related support staff and funds because the position is not justified on a workload basis, for a General Fund savings of \$122,478 (Item 0250-001-001).

The budget requests \$244,956 to add four positions—two investigators and two support staff—to the staff of the Commission on Judicial Performance in 1986-87. The request is based on an increase in the commission's workload and notes that authorized investigation staff size has remained constant since 1980. The commission has hired an additional investigator on a temporary basis during the current year. This position would be made permanent if its request for an augmentation is approved.

As Table 5 shows, overall commission workload fluctuates significantly from one year to the next. Between 1980 and 1985, however, the number of complaints per year has increased by 22 percent. The commission was unable to provide estimates of its investigation workload for either 1986 or 1987. The data also shows that the number of cases closed *before* a preliminary investigation has increased by 35 percent.

The number of complaints may not be an accurate measure of investigator workload. This is because a large proportion of the tasks related to the disposition of a complaint, apart from the investigation itself, is secretarial in nature. However, using the most recent workload data available, our analysis indicates that adding two investigators to the staff, as the commis-

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sion proposes, would reduce the ratio of complaints per investigator to 79—significantly *below* the actual 1980 level. Based on the same workload data, if only one investigator position were approved, the number of complaints per investigator would be 106, also *below* the actual 1980 level.

The commission expects some increase in workload as the result of its plan to expand outreach efforts. Such efforts will involve the participation of local Bar Associations throughout the state in providing more information on judicial misconduct. The commission indicates that additional time is needed to plan the outreach effort and contact local Bar Associations to solicit their participation in the effort, before it can determine what the impact of intensified outreach will be on caseload growth.

Table 5
Commission on Judicial Performance
Workload Measures for Investigative Staff
1980 through 1985

| <i>Workload</i> | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | <i>Percent Change Between 1980 and 1985</i> |
|--|------|-------|-------|-------|-------|-------|---|
| Complaints | 260 | 267 | 360 | 351 | 388 | 317 | 22% |
| Cases closed without action | 195 | 215 | 247 | 288 | 327 | 263 | 35 |
| Inquiries made | 65 | 52 | 68 | 63 | 62 | 54 | -17 |
| Judges contacted | 54 | 48 | 61 | 56 | 64 | 47 | -13 |
| Preliminary Investigation | 12 | 18 | 14 | 21 | 17 | 11 | -8 |
| Admonishments | 8 | 7 | 5 | 6 | 3 | 6 | -75 |
| Resignation or retirement | 1 | 3 | 1 | 3 | 1 | 2 | 50 |
| Public discipline | 0 | 2 | 2 | 3 | 1 | 1 | NA |
| <i>Staff</i> | | | | | | | |
| Investigator positions | 2 | 2 | 2 | 2 | 2 | 2 | 0% |
| <i>Productivity</i> | | | | | | | |
| Complaints/investigator | 130 | 133.5 | 180 | 175.5 | 194 | 158.5 | 22% |
| Cases closed without action/investigator | 97.5 | 107.5 | 123.5 | 144 | 163.5 | 131.5 | -35 |
| Inquiries made/investigator | 32.5 | 26 | 34 | 31.5 | 31 | 26 | -20 |
| Judges contacted/investigator | 27 | 24 | 30.5 | 28 | 32 | 23.5 | -13 |
| Preliminary investigation/investigator | 6 | 9 | 7 | 10.5 | 8.5 | 5.5 | -8 |

If the commission's outreach efforts prove successful, we believe investigative workload will increase in the budget year. For this reason, and because the number of complaints received by the commission has increased since 1980, some increase in staffing is warranted for 1986-87. Our analysis indicates, however, that the increase proposed in the budget—four new positions—is excessive given the absence of workload to justify such an increase. Accordingly, we recommend that one of the proposed new investigator positions as well as one clerical position and related operating expenses, be approved and that the balance in the increase be denied, for a General Fund savings of \$122,478.

JUDICIAL COUNCIL—CAPITAL OUTLAY

Item 0250-301 from the General Fund, Special Account for Capital Outlay

Budget p. LJE 13

| | |
|-----------------------------|-----------|
| Requested 1986-87 | \$281,000 |
| Recommended reduction | 281,000 |

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis page

- 1. *San Bernardino State Building Remodel. Reduce Item 0250-301-036(1) by \$230,000.* Recommend deletion of preliminary planning and working drawing funds to remodel the San Bernardino State Building because no information has been provided to justify either the need for or cost of the project. 17
- 2. *Minor Capital Outlay. Reduce Item 0250-301-036(2) by \$51,000.* Recommend deletion of funds requested for alterations to the Sacramento Library and Courts Building because no information has been provided to justify either the need for or cost of the project. 18

ANALYSIS AND RECOMMENDATIONS

The budget includes \$230,000, for a major capital outlay project to remodel the San Bernardino State Building and \$51,000, for a minor project at the Library and Courts Building in Sacramento.

San Bernardino State Building Remodel

We recommend deletion of Item 0250-301-036(1), \$230,000 for preliminary plans and working drawings for the San Bernardino State Building, because no information has been provided to justify either the need for or the cost of the project.

The Governor's Budget requests preliminary planning and working drawing funds (\$230,000) for a project to remodel office space on the fifth floor of the San Bernardino State Building currently occupied by the Board of Equalization. This alteration would provide an unidentified amount of additional office area to the Second Division of the Fourth Appellate District Court, which currently occupies the entire sixth floor of this building. The future cost of construction is estimated to be \$1,584,000. The estimated cost to relocate the Board of Equalization to lease space has not been provided.

The limited information we have received from the Judicial Council does not substantiate any deficiencies in the court's current office space. Nor does it justify the need for additional space.

The proposal anticipates the addition of two new associate justices and 11 support staff within the next two years—a personnel increase of 42 percent. Filings and original proceedings in the Fourth Appellate District, Division Two, however, decreased by 43 percent between the 1982-83 and 1984-85 fiscal years. This suggests a surplus of personnel—not the need for more staff, and the council has not provided any information that would suggest otherwise. Moreover, no information is available to substantiate either the amount requested for preparation of preliminary plans and

JUDICIAL COUNCIL—CAPITAL OUTLAY—Continued

working drawings or the estimated future construction cost. Consequently, we have no basis to recommend approval of the request and instead recommend that the \$230,000 be deleted.

Minor Capital Outlay

We recommend deletion of Item 0250-301-036(2), \$51,000 for minor capital outlay, because no information has been provided to justify either the need for or the cost of the project.

The budget includes \$51,000 for alterations to space on the first, second, and fifth floors in the Library and Courts Building, Sacramento. The proposed work includes separate restrooms for judges, refurbishing existing attorney's offices, new carpet for the clerk's offices, and a reconfiguration of the first floor computer room.

The Judicial Council has not submitted any information which substantiates either the need for or cost of this alteration work. Furthermore, some of the proposed work (such as recarpeting and refurbishing), if it is necessary, should be financed using special repairs and maintenance funds. For these reasons, we recommend that the requested funds be deleted.

CONTRIBUTIONS TO JUDGES' RETIREMENT FUND

| | |
|---|------------------|
| Item 0390 from the General Fund | Budget p. LJE 14 |
| <hr/> | |
| Requested 1986-87 | \$23,277,000 |
| Estimated 1985-86..... | 23,051,000 |
| Actual 1984-85 | 19,073,000 |
| Requested increase \$226,000 (+1.0 percent) | |
| Total recommended reduction | None |

1986-87 FUNDING BY ITEM AND SOURCE

| Item—Description | Fund | Amount |
|---|---------|---------------------|
| 0390-001-001—Supreme and Appellate Court | | |
| Judges | | |
| —Budget Act Appropriation | General | \$1,079,000 |
| —Government Code Section 75101 | General | 642,000 |
| 0390-101-001—Superior and Municipal Court | | |
| Judges | | |
| —Budget Act Appropriation | General | 13,510,000 |
| —Government Code Section 75101 | General | 8,046,000 |
| Total | | <u>\$23,277,000</u> |

SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS

Analysis page

1. New Retirement System for New Judges. Recommend the enactment of legislation establishing a new benefit structure for new judges.

GENERAL PROGRAM STATEMENT

The Judges' Retirement Fund (JRF) provides benefits for those municipal, superior, appellate and supreme court judges, and their survivors, who are members of the Judges' Retirement System (JRS). This system is administered by the Public Employees' Retirement System (PERS).

The primary revenues to the fund include (1) state General Fund contributions, which are equal to 8 percent of the payroll for all authorized judgeships, (2) contributions equal to 8 percent of salary from active judges, (3) fees on civil suits filed in municipal and superior courts, and (4) direct General Fund appropriations needed to keep the fund solvent on a year-to-year basis. Expenditures from the fund are primarily for retirement and survivor benefits.

In the current year, the fund will receive contributions from about 1,270 active judges, and will pay benefits of almost \$39 million to about 510 retired judges and 325 survivors.

OVERVIEW OF THE BUDGET REQUEST

The budget proposes four General Fund appropriations (under two items) totaling \$23,277,000 as the state's contribution to the Judges' Retirement Fund (JRF) in 1986-87. This amount consists of \$8.7 million (equivalent to 8 percent of judicial salaries) in statutory contributions and \$14.6 million in Budget Bill appropriations needed to meet the cost of the projected benefit payments during 1986-87. Without the latter appropriation, the JRF—which has no reserve funding—would be insolvent, because the receipts anticipated from all other revenue sources would finance only about 58 percent of the projected benefit payments in the budget year. Under current law, the deficit in the JRF must be paid from the state General Fund.

Table 1
Judges' Retirement Fund
Revenues and Expenditures
1984-85 through 1986-87
(dollars in millions)

| | <i>Expenditures</i> | | | <i>Percent Change from 1985-86</i> |
|--|---------------------------|-------------------------|--------------------------|--|
| | <i>Actual 1984-85</i> | <i>Est. 1985-86</i> | <i>Prop. 1986-87</i> | |
| <i>Beginning Reserves</i> | \$2.2 | \$2.8 | \$3.9 | 39.3% |
| <i>Revenues</i> | | | | |
| <i>State Contributions</i> | | | | |
| Statutory 8 Percent | 7.3 | 8.0 | 8.7 | 8.7 |
| Budget Act (deficiency) | 11.5 ^a | 14.9 | 14.4 | -3.4 |
| Budget Act (administration) | 0.2 | 0.2 | 0.2 | — |
| Subtotals, State Contributions | (\$19.0) | (\$23.1) | (\$23.3) | (0.9%) |
| <i>Nonstate Contributions</i> | | | | |
| Judges' Contributions | \$7.2 | \$7.8 | \$8.5 | 9.0% |
| Filing Fees and Investment Income | 5.2 | 5.0 | 5.0 | — |
| Subtotals, Nonstate Contributions | (\$12.4) | (\$12.8) | (\$13.5) | (5.5%) |
| Totals, Revenue | \$31.4 | \$35.9 | \$36.8 | 2.5% |
| <i>Expenditures</i> | | | | |
| Benefits and others (net) ^b | \$30.6 | \$34.5 | \$38.1 | 10.4% |
| Administrative costs | 0.2 | 0.3 ^c | 0.2 | -33.3 |
| Totals, Expenditures | \$30.8 | \$34.8 | \$38.3 | 10.1% |
| <i>Ending Resources</i> | \$2.8 | \$3.9 | \$2.4 | -38.5% |

^a Includes \$1.3 million deficiency appropriation.

^b Includes refunds, assignments and court-ordered pension payments.

^c Includes \$110,000 in 1984-85 allocations which were inadvertently left out of 1984-85 budget.

CONTRIBUTIONS TO JUDGES' RETIREMENT FUND—Continued

Revenues and expenditures for the JRF in the prior, current and budget years are shown in Table 1. The table indicates that the small growth in proposed General Fund expenditures (about 1 percent) is due in large part to a drawdown in the year-end balance of the fund.

ANALYSIS AND RECOMMENDATIONS*We recommend approval.*

The proposed \$23.3 million in General Fund appropriations are necessary to finance the cost of benefits expected to be paid by the JRS during 1986-87. Given the state's statutory responsibility to finance any deficit in the JRF, we recommend that the proposed amount be approved.

Problems With the Current JRS

As we noted in last year's *Analysis* (please see pages 23-24), the existing JRS is experiencing critical fiscal problems:

- **High, Unfunded Ongoing Costs.** The system incurs "normal costs" (that is, the cost of funding retirement benefits as they are earned) equal to 31 percent of payroll annually. This makes the JRS *twice* as costly as the state's other retirement systems. Furthermore, there is no plan to fully fund these normal costs. Annual revenues to the system amount to just 21 percent of payroll.

Revenues and expenditures for the JRF in the prior, current and budget years are shown in Table 1. The table indicates that the small growth in proposed General Fund expenditures (about 1 percent) is due in large part to a drawdown in the year-end balance of the fund.

- **No Reserve Funding.** Since normal costs have never been fully funded, the system has accumulated a large "unfunded liability" (that is, the costs of benefits earned in prior years greatly exceeds the value of assets on hand). The latest actuarial valuation of the JRS (published in March 1985) estimated the size of the unfunded liability at \$620 million. Furthermore, that liability is growing because annual contributions to the fund are insufficient to cover the costs of new benefits being earned. As a result, the JRS is a pay-as-you-go system, with no reserve funds being accumulated to pay for future benefits. In fact, the system requires annual General Fund appropriations just to cover benefit payments to retired members.

A New JRS Benefit Structure is Needed

We recommend enactment of legislation establishing a new retirement system for new judges.

In last year's *Analysis* (please see page 23), we recommended the enactment of legislation to establish a separate retirement system for new judges. We continue to believe that such legislation is needed to resolve the JRS's fiscal problems. In creating a new benefit structure for future judicial appointees, the Legislature should provide for:

- **Mandatory Participation.** All new judges should be *required* to join the *new* system; they should not have the opportunity to enroll in the existing plan.
- **Full Funding of Normal Costs.** Given the high cost associated with the current benefits, the Legislature should consider reducing *its*

financial stake in the payment of retirement benefits for new judges. Regardless of what normal costs turn out to be under the new system and regardless of how those costs are allocated between employee and employer, the system should be fully funded each year. This would ensure that the Legislature has complete information on the cost of compensating judges, and that the new system does not take on any unfunded liabilities.

- **Legislative Flexibility.** Any new system should specifically authorize the Legislature to adjust its annual contribution. This would “untie the hands” of the Legislature, and allow that state contribution to be used as a compensation tool.

SALARIES AND BLOCK GRANTS FOR SUPERIOR COURT JUDGES

Items 0420-0440 from the General Fund

Budget p. LJE 15-16

| | |
|--|--------------|
| Requested 1986-87 | \$66,453,000 |
| Estimated 1985-86..... | 58,762,000 |
| Actual 1984-85 | 54,326 |
| Requested increase \$7,691,000 (+13.1 percent) | |
| Total recommended reduction | None |

1986-87 FUNDING BY ITEM AND SOURCE

| Item—Description | Fund | Amount |
|---|---------|--------------|
| 0420-101-001—Judges salaries and benefits | General | \$52,893,000 |
| 0440-101-001—Block grants | General | 13,560,000 |
| Total | | \$66,453,000 |

GENERAL PROGRAM STATEMENT

The state pays 88 percent to 93 percent of the salaries plus the full cost of health benefits provided to the state’s 725 superior court judges.

Currently, each county contributes \$5,500, \$7,500, or \$9,500 per year toward each judge’s salary, depending on the county’s population. The state pays the balance of each judge’s salary, which is now set at \$77,129. The counties’ share of total salary cost has not changed since 1955, when the program began.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

Table 1 summarizes expenditures for superior court judges’ salaries and health benefits, as well as expenditures for block grants to counties, for the past, current, and budget years.

As shown in Table 1, the budget proposes an appropriation of \$52,893,000 from the General Fund to cover the state’s share of superior court judges salaries and health benefits. This amount is \$5,411,000, or 11.4 percent, more than estimated current-year expenditures for salaries and benefits. The increase would provide for the full-year cost of salary in-

SALARIES AND BLOCK GRANTS FOR SUPERIOR COURT JUDGES—Continued

creases granted to superior court judges effective July 1, 1986, as well as for a 9.9 percent increase in benefit expenditures.

The increase in the amounts budgeted for salaries and benefits reflects the addition of 38 new superior court judgeships authorized in Chapter 1607, Statutes of 1985 (AB 19), as well as adjustments in the salary and benefits received by each judge.

The budget also proposes an appropriation of \$13,560,000 from the General Fund to provide block grants to counties in support of 226 superior court judgeships. This amount is \$2,280,000, or 20.2 percent, more than estimated current-year expenditures for this purpose. The increase reflects the 38 superior court judges approved by the Legislature.

Table 1
State Expenditures for
Salaries, Health Benefits, and Block Grants
for Superior Court Judgeships
1984-85 through 1986-87
(dollars in thousands)

| <i>Expenditures</i> | <i>Actual 1984-85</i> | <i>Est. 1985-86</i> | <i>Prop. 1986-87</i> | <i>Percent Change from 1985-86</i> |
|-----------------------------------|---------------------------|-------------------------|--------------------------|--|
| Salaries (Item 0420) | \$41,448 | \$46,569 | \$52,000 | 11.7% |
| Health Benefits (Item 0420) | 1,598 | 1,613 | 1,773 | 9.9 |
| Salary Savings | — | (700) | (880) | 25.7 |
| Subtotals, Item 0420 | 43,046 | 47,482 | 52,893 | 11.4 |
| Block Grants (Item 0440) | 11,280 | 11,280 | 13,560 | 20.2 |
| Totals | \$54,326 | \$58,762 | \$66,453 | 13.1% |

NATIONAL CENTER FOR STATE COURTS

Item 0460 from the General Fund

Budget p. LJE 16

| | |
|-----------------------------------|----------|
| Requested 1986-87 | \$50,000 |
| Estimated 1985-86 | 50,000 |
| Actual 1984-85 | 50,000 |
| Requested increase: None | |
| Total recommended reduction | None |

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The budget proposes an appropriation of \$50,000 from the General Fund to finance California's membership in the National Center for State Courts. This is the same amount appropriated for this purpose in the current year.

Members of the center include all 50 states, four territories, and the District of Columbia. The \$50,000 requested in this item is approximately

21 percent of the amount which California is assessed by the center. This assessment is based on the state's population. The \$50,000, in contrast, represents approximately 2 percent of the membership fees collected by the center from all states.

Membership in the center entitles California to judicial research data, consultative services, and information on the views of the various states on federal legislation and national programs affecting the judicial system.

GOVERNOR'S OFFICE

Item 0500 from the General
Fund

Budget p. LJE 17

| | |
|--|-------------|
| Requested 1986-87 | \$6,365,000 |
| Estimated 1985-86..... | 5,423,000 |
| Actual 1984-85 | 5,080,000 |
| Requested increase \$942,000 (+17.4 percent) | |
| Total recommended reduction | None |

GENERAL PROGRAM STATEMENT

The California Constitution grants the supreme executive power of the state to the Governor, who is responsible for administering and enforcing state law. The Governor is elected to a four-year term, and currently receives an annual salary of \$49,100.

The Governor's office has 83 authorized personnel-years in the current year.

ANALYSIS AND RECOMMENDATIONS

We recommend approval.

The budget proposes an appropriation of \$6,365,000 from the General Fund for support of the Governor's office in 1986-87. The proposed amount is \$942,000, or 17.4 percent, greater than estimated current-year expenditures. Table 1 provides a summary of the budget for the Governor's office in the past, current, and budget years.

Most of the increase requested for 1986-87 would be used to establish overseas offices in London and Tokyo, at a total cost of \$700,000. This proposal is discussed below. In addition, \$202,000 would be used to cover the cost of employee compensation increases. These increases are consistent with those negotiated for most nonexempt state employees during last year's collective bargaining process. The balance of the increase—\$40,000—will help finance the second-year of the Governor's office automation project (\$30,000) and cover the increased cost of membership dues in the National Governor's Association (\$10,000).