

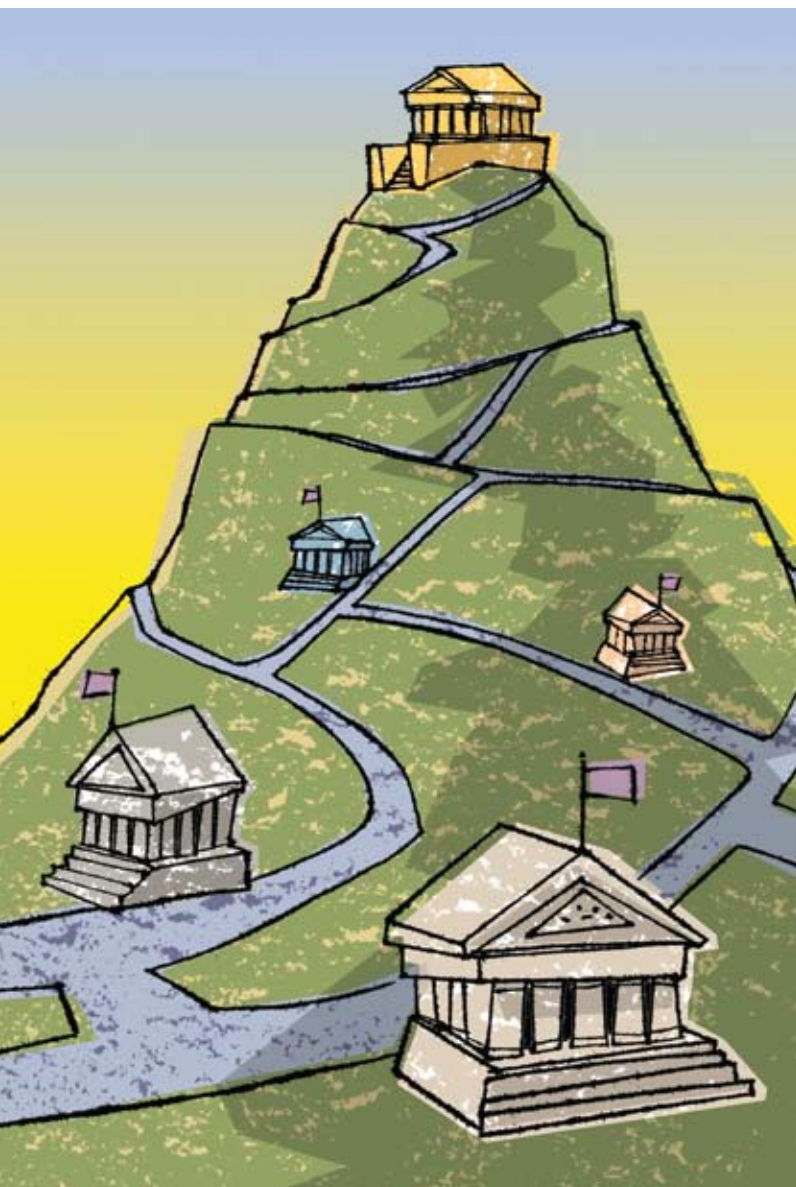
# California Courts Review

*A Decade of  
State Trial Court  
Funding*

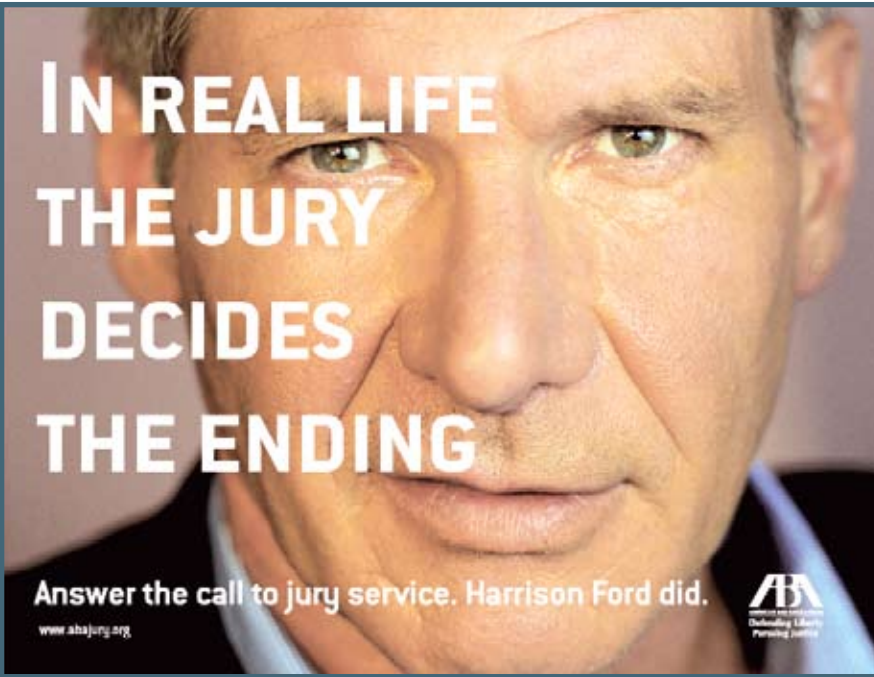
A FORUM FOR THE STATE JUDICIAL BRANCH

WINTER 2009

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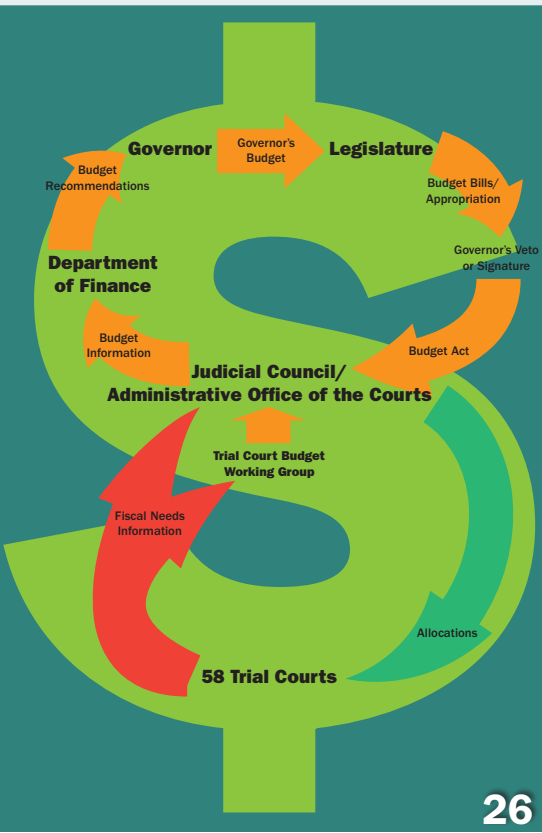


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Views expressed in *California Courts Review* are those of the authors and not necessarily those of the Judicial Council or the Administrative Office of the Courts.

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WINTER 2009

*Our court system* is an independent branch of government, and there is strength to be derived from that unity. But until we judges begin to see ourselves as part of an organic whole, that strength will be dissipated and wasted.”<sup>1</sup>

Remarks by Chief Justice Ronald M. George? Or Chief Justice Malcolm M. Lucas?

No, those words were spoken more than 30 years ago by Chief Justice Rose Elizabeth Bird in her first State of the Judiciary address. Bird’s words fell on deaf ears, and by the time I started covering the California courts on January 1, 1979, it was clear that Bird was already on bad terms with most prosecutors and many of the state’s judges, particularly in Los Angeles. Time and again, I witnessed the Judicial Council under Bird push for such trial court reorganization reforms as the El Cajon experiment—in which Bird assigned municipal court judges to hear certain matters within the jurisdiction of the superior court—only to be ignored by the superior court judges or actively opposed by the California District Attorneys Association.<sup>2</sup>

More experienced court reporters advised me not to pay too much attention to Bird’s proposals because, regardless of their merits, they weren’t going anywhere, both because of opposition to Bird and because most judges liked things the way they were. Even when Lucas became Chief Justice and George Deukmejian became Governor and supported state funding,<sup>3</sup> I remained skeptical that their well-intentioned goals would ever see the light of day.

But, sometimes, good ideas prevail even in the face of enormous opposition and numerous setbacks and obstacles. So it is with state funding of the trial courts. By the time George became Chief Justice in 1996, the circumstances for change were ripe: the judicial branch had endured severe fluctuations in funding, the funding disparities between counties became increasingly apparent, and reform-minded legislators were anxious to push for changes.

After 10 years, it’s too early to say definitively that state funding has fulfilled its promise. As this year’s state budget troubles have demonstrated, when the state suffers, the courts will suffer, too. Yet the courts would have suffered this year even if they were funded by the counties because the ongoing fiscal crisis has affected every jurisdiction from the smallest county and school district to countries throughout the world. It may take another 5 or even 10 years to identify the full benefits of state funding.

Nonetheless, a 10-year anniversary is a good time to recount the journey, hear from those who were there, and assess the benefits that have resulted from the shift to state funding of the trial courts. All of these topics are covered in this issue of *California Courts Review*. We hope you enjoy the feature articles and come away with new perspective. We look forward to your feedback.

—Philip R. Carrizosa  
*Managing Editor*

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1. State of the Judiciary address, State Bar Conference of Delegates (Sept. 10, 1978) reported in *Los Angeles Daily Journal Report* (Oct. 6, 1978), pp. 4–5.

2. *California Ballot Pamphlet, General Election* (Nov. 2, 1982), pp. 38–41.

3. Chief Justice Malcolm M. Lucas, State of the Judiciary address, State Bar Conference of Delegates (Sept. 20, 1987).



JOCK McDONALD

## RECALLING THE CHALLENGES AND BENEFITS

*Chief Justice Ronald M. George writes for CCR on 10 full years of state trial court funding.*

In the 10 years since state funding of the trial courts became a reality, the judicial branch has undergone tremendous changes that have enabled it to better meet the needs of the public. At a time when California's economic circumstances dictate difficult choices, it is worth recalling the challenges faced by the trial courts before the advent of state funding—and the benefits it has bestowed since its adoption by the Legislature in 1997 at the urging of the judicial branch. This monumental change was achieved by building on previous efforts to reform the funding mechanism for the courts, and on the realization that half-measures not only were inadequate but also, in some instances, were adding to the problems courts faced in dealing with insufficient and inconsistent funding.

Before state funding was instituted, trial courts were required to seek appropriations from both the board of supervisors in their counties and the state. Frequently, the state and the county operated on different fiscal-year systems and used different budgeting systems. Courts usually had to compete for scarce dollars, and the economic health of their particular communities affected their success. The Trial Court Realignment and Efficiency Act of 1991 initiated a movement toward increasing and stabilizing state funding, but as the state's fiscal situation took a downward turn in the early 1990s, the expectation of increased state support under that provision was not realized. Many courts were finding it difficult to provide necessary services to the public.

I encountered a representative sampling of the problems caused by erratic and inadequate funding during

the visits I made to the trial courts in each of the 58 counties of California. This journey began in 1996, shortly after I became Chief Justice, and covered approximately 13,000 miles over a one-year period. William Vickrey, Administrative Director of the Courts, and I met with local judges, court staff, members of the bar, and community leaders. What we observed during those visits served as the impetus for our branch's ensuing efforts to obtain state funding and to improve the judicial branch's service to the public.

We found a wide-ranging variety of courts, court facilities, and court services. Dedication to providing fair and accessible justice to all was a universal value, but the ability to do so differed greatly. In some counties, courts were well funded and operated in facilities that provided an appropriate setting allowing judges and court staff to focus on serving the public effectively. In other counties, insufficient resources resulted in truncated services, insufficient staff, inadequate and even dangerous facilities, poor security, shortened hours of availability in clerks' offices, and incompatible and outdated information-processing systems—or no systems at all. For many courts, the challenge was to stay open until the end of the fiscal year—and their uncertainty about what lay ahead made the idea of planning or long-term development a distant luxury.

In many ways, trial courts operated in isolation. There was no reliable method to communicate from one court to another the best practices and efficiencies that had been developed. We frequently found that “the wheel” had been reinvented at great cost and

effort and that proven methods already adopted in other jurisdictions were unknown. In several instances, we put presiding judges or court administrators in contact with their peers in other courts who had faced and resolved similar problems. At the same time, additional judicial positions were needed in many areas, but no effective and balanced means existed to place those needs before the Legislature.

The problems were so severe that, during my first year as Chief Justice, I twice was forced to seek emergency funding from the Legislature to assist several courts facing imminent closure, a breakdown in basic services to the public, and severe layoffs of employees. There were almost daily reminders of the urgent need for a financing system that would provide adequate and stable funding for all courts. Funding for basic services such as court interpreters and dependency counsel often was scarce. Courts were beginning to experience a surge in the number of self-represented litigants but had insufficient means to meet the needs of these individuals. Public access to court information was limited.

Inadequate facilities were falling into disrepair or could not cope with new demands. In one rural court that I visited, the judge had stacked law books in front of his bench as a makeshift shield against bullets after an attempted hostage-taking in his court facility. Happily, these tomes contained the reported decisions of federal rather than California courts. In an urban court, I encountered a commissioner who was working out of a converted storeroom and who himself had built a bench, jury box, and counsel

tables in his home workshop. Jurors in many courts congregated in stairwells, halls, and even on sidewalks. Prisoners were escorted through public hallways to reach courtrooms. In facility after facility, unsatisfactory security arrangements put judges, lawyers, litigants, jurors, court staff, witnesses, and visitors at risk.

We anticipated that state funding would raise the level of services provided across the state to an effective baseline, provide courts with a stable and predictable level of funding, and allow the judicial system to engage in productive planning for the challenges ahead. To a large degree, those expectations have been met. The size of California and the variation among the communities involved—1,200 residents in Alpine County, served by 2 judges, versus more than 10 million residents in Los Angeles County with a bench of almost 600—pose unique challenges. Different courts require different resources, and all courts cannot be expected to offer the exact same services. Nevertheless, the move to state funding for the first time offered a global perspective on how justice was being administered across the state and on what needed to be done to equalize core functions.

This new approach had a positive impact within months after it became effective in January 1998. The first full year's appropriation included a \$50 million increase in funding for court operations—a figure far below need but substantial enough to allow allocations to individual courts at a far greater level.

State funding also permitted the judicial branch to seek additional funding through mechanisms such as the Trial Court Improvement Fund and the Judicial Administration Efficiency and Modernization Fund, which are designed to assist courts in improving their services through support of innovative projects and programs, judicial and court staff education, and information systems. In later years, the Equal Access Fund has permitted our branch to improve legal services through worthy programs statewide.

Over the years, fluctuations in the economic health of California have been reflected in the appropriations for the judicial branch. Nevertheless, although the state faced difficult fiscal challenges in 2003 and 2004, the reforms made since state funding began have helped courts cope with reductions in resources and weather the fiscal cycles in far better shape than would have been possible without the budgeting structures that state funding has provided. Last-minute emergencies have not required the infusion of funds to avoid court closures. Court unification, which occurred soon after state funding began, also promoted, through reductions in duplicative systems, greater flexibility in employing administrative and judicial resources, and the sharing of information about best practices. The development of statewide budgeting systems has helped us make the case for additional resources while ensuring accountability to our sister branches of government. We now can discern trends early and seek funding to meet oncoming challenges rather than wait for crises to occur. Greater stability has encouraged ongoing strategic planning for the branch and for individual courts. Presiding judges and court administrators play a significant role in allocating the funding received by our branch, thereby ensuring responsiveness to the needs of individual courts. The ongoing transfer of court facilities to state ownership under the management of the Administrative Office of the Courts, and the recent enactment of a \$5 billion revenue bond measure that allows us to start the process of rehabilitating and replacing courthouses that are in dire need of attention, also reflect the benefits of employing a statewide focus.

This brief retrospective would not be complete without mention of our related success in persuading our sister branches in 2004 to extend to the trial courts an annual adjustment to base funding employed by the Legislature in its own budget process. The application of the state appropriations limit to the judicial branch automatically adjusts the trial courts' operating budget

based on population and changes in per capita personal income, reflecting the resulting increases in workload. Without question, this accomplishment would have been impossible in the absence of a responsible and accountable statewide fiscal system.

Looking back to the implementation of state funding for the trial courts 10 years ago and the extraordinary changes that have ensued, it is readily apparent that the judicial branch is stronger, in far better financial shape than it otherwise would have been, and in the best position possible to cope with the broad economic fluctuations facing California. There still is much to be done. Funding remains insufficient. New judgeships are critically needed. We need to address the problem of ensuring safe and secure courthouses for all. We must find a way to provide more interpreters in civil actions and to better assist unrepresented litigants in those proceedings. We must fully develop and support a statewide case management system that offers broader access to the public and allow the efficient exchange of information with our justice system partners.

In short, the challenges are many—but the successful results of our actions during the past 10 years prove the value of continuing on the path we have chosen. California's court system has come a long way from being a group of loosely connected individual courts to now constituting a strong judicial branch—in fact and in function, and not merely in theory and in name—with funding adequate to enable it to perform its function.

Looking ahead to the next 10 years, we know that additional resources of every type will be needed. At the same time, we must and shall do our part to mitigate the fiscal crisis now facing the state. Fortunately, the experience of the past decade demonstrates that our branch can and will meet any challenge that lies ahead. I look forward to working productively with all of you during the next 10 years in continuing to provide the people of California with fair and accessible justice for all.



# THE LONG JOURNEY

By  
**Claudia Ortega**

“I firmly believe state funding is the best way to go. Stable adequate funding in every court in every county is a responsibility the state as a whole must and should bear.”

—*Chief Justice Malcolm M. Lucas*  
*Address to California Judges Association, October 1, 1995*

“Quite simply, state funding allows courts to cope in coordinated fashion with change and the public’s needs.... It has given us room to think ahead and to plan .... Our courts can look at current circumstances, project future needs, and decide how best to meet them in orderly fashion. And we also are better positioned to deal with the inevitable crises that occasionally confront our court system.”

—*Chief Justice Ronald M. George*  
*State of the Judiciary Address to the Legislature, March 20, 2001*

“Our goal isn’t to be comfortable; our goal is to see that the public has access to justice and that the court system can be held directly accountable by our other two branches of government for the fair and effective administration of justice in the state.”

—*William C. Vickrey*  
*Administrative Director of the Courts*



# TO STATE FUNDING

**F**or most of California's history, the quality of justice rendered by the trial courts was dependent on the discretion and financial health of the state's 58 county governments. Supplemented by extremely limited state funding, the counties had primary responsibility for major costs of the court system:

salaries for municipal and justice court judges; retirement benefits for justice court judges; expenses related to all nonjudicial court personnel; and all operational and facilities costs of the superior, municipal, and justice courts. The state paid the salaries of superior court judges and retirement benefits of superior and municipal court judges, and it also funded the appellate courts, the Judicial Council, and the Administrative Office of the Courts.

As a result of this longstanding disparate funding structure, court services varied by county and the ability of courts to fulfill their mandated mission was at risk. In his 2001 State of the Judiciary address to the California Legislature, Chief Justice Ronald M. George painted this picture:

The pre-existing system, with funding bifurcated between the counties and the state, bred uncertainty for the courts and discouraged a sense of commitment by either funding partner. Disparities in the quality of justice dispensed across the state were common and erratic. Local courts were on the verge of closing, with staff cutbacks and unfunded payrolls, facilities in a state of dangerous disrepair, services to the public drastically curtailed, and, ultimately, the entire administration of justice at risk.

## Early Efforts to Achieve State Funding

In May 1969, Chief Justice Roger J. Traynor was faced with a delicate problem. Assembly Member James A. Hayes had introduced a proposed constitutional amendment that would require the state to provide for the "funding, operation and administration" of the trial courts. Hayes, chair of the Assembly Judiciary Committee, an ex officio member of the Judicial Council, and a Long Beach lawyer, had long pushed for the ambitious concept, and the measure, Assembly Constitutional Amendment 66 (ACA 66), was coming up before his committee.

Hayes made it clear that he wanted the council's "specific view" on the measure rather than blanket opposition. Traynor, who had been Chief Justice for five years and was preparing to retire, knew there would be tremendous outcry from California's judges if the state suddenly took over control of the trial courts. So a compromise was reached: the council opposed inclusion of the words "operation and administration" in the proposed measure. The council did support the concept of state *funding* of the trial courts.

The measure did not pass the Legislature that year, but Hayes would be back. By the time Donald R. Wright succeeded Traynor as Chief

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We are indebted to Larry L. Sipes, whose book *Committed to Justice: The Rise of Judicial Administration in California* (Administrative Office of the California Courts, 2002) provided material for this article.

**1950**

**Six types of lower courts reorganized into municipal and justice courts**

**1977**

**Jurisdictional and procedural differences between justice and municipal courts eliminated**

**1978**

**Proposition 13 approved**

**1984**

**Trial Court Funding Act of 1984 vetoed**

**1985**

**Trial Court Funding Act of 1985 adopted**

**1988**

**Brown-Presley Trial Court Funding Act enacted**

Justice, the council had developed a plan. The council had already hired the consulting firm of Booz, Allen & Hamilton to engage in a broad study of the municipal and justice courts. The firm was directed to supplement its work by studying the feasibility of a completely unified trial court system.

The 1971 Booz Allen report recommended total state funding of the trial courts. Calling the current system of funding “a patchwork,” Booz Allen concluded that state funding “provides an opportunity to use the state’s broader revenue base to avoid underfunding of courts in counties with marginal financial resources for supporting judicial services or in counties which are unwilling to provide adequate financing.”

“It reinforces the fact that judicial services, although provided locally, are of statewide importance,” the report added.

Not surprisingly, the Booz Allen report stirred up a hornet’s nest of opposition. Nearly 200 members of the Conference of California Judges (the precursor to the California Judges Association) turned out en masse at Los Angeles International Airport on a Saturday to debate the report’s recommendations. A plebiscite found judges fairly evenly divided on a proposal to create a single-level trial court: 258 were in favor and 221 against. The judges made it clear that they preferred local control of their courts, voting against the concept of statewide

administration of the trial courts by a margin of 387 to 89. But the judges voted overwhelmingly in favor of state financing of all trial court operating costs with a margin of 334 to 134.

At the Judicial Council meeting a month later, council members voted on whether to approve or disapprove the Booz Allen recommendations. Los Angeles Superior Court Judge Joseph A. Wapner, who later gained television fame as the *People’s Court* judge, moved to disapprove state funding of the trial courts. His motion failed on a tie vote.

The die was cast. The Judicial Council has supported state funding of the trial courts ever since, and every Chief Justice since then has called for the Legislature to adopt it. Under Chief Justice Wright, the council proceeded cautiously, recommending only that the state assume the costs for “salaries and fringe benefits of all judges and court-related personnel in the county court system.”

However, persuading the Legislature to go along proved difficult, with various proposals for a major increase in state funding failing to obtain legislative approval.

### **Proposition 13— An Impetus**

Had California voters not adopted Proposition 13 in 1978, state funding for trial courts probably would not have

occurred for many more years. Proposition 13 reduced the primary source of funding for local governments by limiting their ability to raise property taxes. With new strains on their budgets, the counties could not afford the costs of running the courts. While they received revenue from the local courts—filing fees, fines, forfeitures, penalties, and other charges—the courts’ operating expenses had always exceeded revenue. The counties started to look to the state for trial court funding.

### **The Momentum Shifts**

In 1984, Senator Barry Keene introduced the Trial Court Funding Act of 1984 (Senate Bill 1850 and Assembly Bill 3108 [Robinson]). Under this proposed legislation, counties could elect whether or not to participate. If a county chose to participate, the state would provide a block grant (a set sum per year, adjusted for inflation) for every superior court and municipal court judgeship and for each subordinate judicial position. In return, the county would relinquish to the state the great bulk of the revenues it received from filing fees, fines, and forfeitures. The Legislature joined and passed the bills, but Governor George Deukmejian vetoed them. Although the act did not pass, the legislative findings in the proposed bill would lay the groundwork for future debates and policymaking:

**1991**

**Trial Court Realignment and Efficiency Act adopted**

**1992**

**First branchwide strategic plan approved**

**Trial Court Budget Commission formed**

**1993**

**Publication of *Justice in the Balance: 2020, Report of the Commission on the Future of the California Courts***

**1994**

**First consolidated budget proposal to the Legislature presented by the Trial Court Budget Commission**

- The trial of civil and criminal actions is an integral and necessary function of the judicial branch of state government.
- All citizens of this state should enjoy equal and ready access to the trial courts.
- Local funding of trial courts may create disparities in the availability of the courts for resolution of disputes and dispensation of justice.
- Funding of trial courts should not create financial barriers to the fair and proper resolution of actions.
- This legislation promotes the general welfare and protects the public interest in a viable and accessible judicial system.

The dialogue about state funding for the trial courts continued into the next year, during which the Trial Court Funding Act of 1985 (Assem. Bill 19 [Robinson]) was enacted, albeit without implementing appropriations. In 1988, with the enactment of the Brown-Presley Trial Court Funding Act (Sen. Bill 612 [Presley]; Assem. Bill 1197 [W. Brown]), partial state funding for trial court operations was achieved. The act gave the counties the option of participating and guaranteed state block grants if they chose to do so. This legislation was funded with approximately \$300 million. The act also established the Trial Court Improvement Fund

(TCIF), which would allow the Judicial Council to distribute grants to the trial courts to improve their efficiency and management. However, the Legislature did not fund the TCIF when it passed the bill.

By 1989, all counties had opted to participate under the terms of the Brown-Presley Trial Court Funding Act. That year the state distributed \$527 million to the counties in the form of block grants or other appropriations for trial court expenses. While the state was not assuming full responsibility for funding of trial court operations, the momentum had shifted significantly in that direction.

### **Making a Stronger Case**

The \$527 million in state funds provided to the counties in 1989 covered only 44 percent of total trial court costs. The recession that began in 1990 reduced the appropriation to 38 percent. In 1991, the Legislature established the goal of achieving 70 percent state funding of the trial courts by 1995–1996. But the recession of the early 1990s and the cumulative effects of Proposition 13 imposed continuing restraints on fulfilling that goal. In 1991, state funding provided 51.4 percent of trial court costs, fell to 50.6 percent in 1992, and returned to 44 percent in 1993.

Recognizing the clear pattern of inadequate state funding, in 1992 the Judicial Council created the Trial

Court Budget Commission. The commission's membership consisted of 26 trial judges representing 10 geographic regions. Serving in the capacity of advisory members were 4 court administrators and 2 county administrators. The commission was delegated the new responsibility of preparing annual budget submittals for the trial courts. It was also given the authority to reallocate funds to the extent authorized by the annual budget and determine procedures for submission of budget information by the trial courts.

The commission created 11 functional categories of trial court budget purposes to replace block grant funding and established baseline budget requests for each trial court.

In 1994, for the first time, the judicial branch, through the work of the commission, presented a consolidated trial court budget proposal to the Governor and Legislature. Trial court needs were projected at \$1.75 billion, an amount that far exceeded the approximately \$526 million estimated in 1982. Although Governor Pete Wilson and the commission had different estimates of trial court costs, the Governor proposed a \$400 million increase in state support for a total of \$1.017 billion, an amount that represented 58 percent of trial court costs as estimated by the commission.

Also in 1994, with the leadership of Assembly Member Phillip Isenberg, the Legislature passed Assembly Bill



**1994 continued**

**Judicial branch budgeting system and funding based on functions instituted by AB 2544**

**Justice courts converted to municipal courts by Proposition 191**

**1997**

**Lockyer-Isenberg Trial Court Funding Act adopted**

**Center for Children and the Courts established**

**1998**

**Proposition 220 approved**



Governor Pete Wilson signs the Lockyer-Isenberg Trial Court Funding Act of 1997 as Senator Martha Escutia (left), Senator Bill Lockyer (behind Wilson), and others who worked for the measure look on.

2544, which declared its intent to create a budgeting system for the judicial branch that would protect its independence while preserving financial accountability. Based on the Trial Court Budget Commission’s recommendations, the legislation also implemented the transition from block grants to funding based on specific court functions.

Over the next few years, the judicial branch faced additional reductions in state funding and, along with other state entities, continued to weather the financial storm. In the 1994–1995 fiscal year, the state provided only 34 percent of trial court funding and the Legislature was forced to enact emergency

legislation to keep courts operating in several counties. The Judicial Council continued to make the argument for full state funding.

**Full State Funding Achieved**

Through collaboration with justice system stakeholders—the council, trial court presiding judges and executive officers, the California State Association of Counties, the Department of Finance, and key legislative members—the long-held and monumental goal of full state funding was finally reached. In October 1997, Governor Pete Wilson signed the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233). This legislation enacted major systemic changes by

- Consolidating all court funding at the state level, giving the Legislature authority to make appropriations and the Judicial Council responsibility to allocate funds to the state’s courts
- Capping counties’ financial responsibility at the 1994 level, to be paid quarterly into a statewide trust fund
- Requiring the state to fund all future growth in the cost of court operations
- Authorizing the creation of 40 new judgeships, contingent on an appropriation made in future legislation

- Requiring the state to provide 100 percent funding for court operations in the 20 smallest counties beginning July 1, 1998
- Raising a number of civil court fees to generate about \$87 million annually for trial court funding.

**Trial Court Unification**

The effort to achieve full state funding was running parallel with the effort to unify the trial courts. Historically, California’s trial courts were made up of numerous lower courts within every county. From 1950 to 1994, the trial courts were made up of superior courts, municipal courts, and justice courts, each with its own staff and operational systems.

The branch undertook an important step toward unification with the Trial Court Realignment and Efficiency Act of 1991 (Assem. Bill 1297 [Isenberg]). The legislation focused on three major areas of change in California’s trial court system: administrative and judicial coordination within and across county court systems to share resources, improve public access, and reduce operating costs; realignment of funding; and state funding increases to approximately 50 percent. Judicial Council advisory committees set about developing standards for implementing coordination between superior, municipal, and justice courts in areas such as judicial resources and calen-

**1999**

**One-day or one-trial jury service instituted**

**2000**

**Trial Court Employment Protection and Governance Act enacted**

**Strategic plan updated**

**2001**

**All courts vote to unify**

**Online Self-Help Center for self-represented litigants created**

**AOC Northern/Central and Southern Regional Offices established**

daring, and the courts developed coordination plans. By 1996, the Judicial Council had approved the plans of all 58 counties.

Meanwhile, in 1992, proposed Senate Constitutional Amendment 3 (SCA 3) revisited the concept of trial court unification, and it was exhaustively studied by presiding judges, court administrators, and the National Center for State Courts. That measure ultimately failed in the Assembly. Then, in 1994, Proposition 191 (SCA 7), which would create a single level of limited jurisdiction court statewide, came before the voters. Proponents argued that the justice courts had become identical to municipal courts in every aspect except name. The voters agreed, and the result was a trial court system made up of two courts—superior and municipal.

Finally, in 1998, Californians voted to adopt Proposition 220 (SCA 4), which would provide for voluntary unification of the superior and municipal courts of a county. The approval of judges was critical to the implementation of this amendment; a majority vote of the municipal and superior court judges in each county was needed to approve unification. By 2001, all 58 counties had unified their trial courts into a single, countywide superior court.

### Further Reforms

Of course, the transition from county-level funding to state funding was not without its challenges. Declining revenues and disputes as to what actually were court costs emerged, but over time greater fiscal stability was achieved.

Equally important, the passage of the Lockyer-Isenberg Trial Court Funding Act demonstrated the critical role of strategic planning. The council's 1992 Strategic and Reorganization Plan had lent further credibility to the branch's requests for state funding, and it had contributed significantly to the passage of the act. The judicial branch has continued to refine its vision and goals for the future. The current plan, *Justice in Focus: The Strategic Plan for California's Judicial Branch, 2006–2012*, echoes many of the priorities established in the early 1990s and sets forth new objectives to meet the public's changing needs.

While the Lockyer-Isenberg Trial Court Funding Act allowed for the major shift from disparate county funding to more stable state funding for the trial courts, it did not resolve two significant issues. Should county employees working for the trial courts remain county employees or become court employees? Should the counties continue to own their courthouses, or should ownership transfer to the judicial branch? Over the years, as

the system of state funding evolved, these questions repeatedly resurfaced. They were soon answered. In 2000, the Trial Court Employment Protection and Governance Act (Sen. Bill 2140) changed the status of the courts' 17,000 workers from employees of the county to employees of the court. And in 2002, the Trial Court Facilities Act (SB 1732) transferred governance of local courthouses to the judicial branch, which meant that the Judicial Council, through the AOC, was given the responsibility of operating, maintaining, designing, and building courthouses. The task was formidable: 529 court facilities were spread throughout the state, and many buildings had suffered decades of neglect. In fall 2008, the Legislature passed Senate Bill 1407, a \$5 billion court construction bond that will fund high-priority facilities projects throughout the state.

With these key structural changes in place—along with those that came before—the judiciary was prepared to meet its future responsibilities as a co-equal, independent branch of state government. RR

*Claudia Ortega is a senior court services analyst in the AOC's Office of Communications.*

**2002**
**Trial Court Facilities Act enacted**
**Phoenix Financial System initiated**
**AOC Bay Area/Northern Coastal Regional Office established**
**2003**
**Spanish-language Online Self-Help Center created**
**California Civil Jury Instructions (CACI) adopted**
**AOC Office of Court Construction and Management established**

# What Have All These Reforms Meant?

## Priorities, Planning, and Better Service

By  
**Philip R. Carrizosa**

**W**hat a difference a decade makes. It has been a full 10 years since California adopted state funding of the trial courts. Starting on January 1, 1998, the Lockyer-Isenberg Trial Court Funding Act became effective and California’s courts entered a new era, one in

which state government assumed full responsibility for funding the operation and administration of California’s trial courts in all 58 counties. It was a gigantic step for California’s judicial branch, one that promised to pave the way for resolving the major problems plaguing the courts since the 1950s.

From the broadest perspective, the branch—through the Chief Justice, the Judicial Council, and the presiding judges and court executives—is now truly charting its own course rather than following one set by the Legislature or county governments. Slowly but surely, the state’s legislative and executive branches are recognizing the judicial branch as a co-equal, independent,

and accountable arm of government instead of simply another state agency like the Department of Motor Vehicles. The judicial branch’s new course fulfills a vision held by a long line of Chief Justices and Administrative Directors. As Chief Justice Malcolm M. Lucas offered in his 1990 State of the Judiciary address, “We need to anticipate change and plan for action. We need to lead and not wait to be led into the next millennium.”

State funding of the trial courts was foundational for the judiciary’s progress, allowing the branch to set priorities, establish long-term planning, and embark on important reforms. Other measures were important as well: trial court unification, transfer of court staff from county to court employment, and the judicial branch’s assumption of responsibility for the state’s courthouses. But these measures would not have been possible without stabilized state funding.



**California Courts Technology Center and Court Case Management System initiated**

## 2004

**Court-county working group on collections established; guidelines for comprehensive collections program developed**

**Model Juror Summons pamphlet issued**

## 2005

**Uniform Civil Fees and Standard Fee Schedule Act enacted**

**Resource Allocation Study (RAS) methodology instituted**

### More Stable Funding

Before 1998, the effects of resource allocation across courts were largely disconnected from one another. Once state funding became available, the Judicial Council directed the Administrative Office of the Courts (AOC), Office of Court Research to develop workload measures (the Resource Allocation Study) to assist branch leaders in prioritizing funding to assist chronically underfunded courts. State funding has also provided the courts with the opportunity to take advantage of the state appropriations limit (SAL), which has been a part of the State Budget since 1979. Under SAL, adopted by the Judicial Council in 2005, trial court budgets are automatically adjusted based on factors such as changes in the state's population and the cost of living to provide a fair, year-to-year funding adjustment.

In addition, passage of the trial court funding act gave trial courts the ability to carry over funds from one fiscal year to the next, which is unique in California government. Thus, trial courts may use remaining fund balances to meet their current needs rather than returning the funds to the state.

### Direct Services to the Courts and Long-Term Planning

The changes in funding meant that the courts could no longer depend on the counties to provide essential business services. Legal services, for example, had been the responsibility of county counsel. Presiding judges asked the Judicial Council to assume this function, and, as a result, the AOC Office of the General Counsel now provides the courts with assistance in litigation management, litigation defense, and transac-

tions and offers legal advice on labor, employment, and judicial administration issues.

As the policymaking body of a unified, unitary branch of government, the Judicial Council has increased the number and variety of other services it provides to local courts. Three regional offices were created in Burbank, Sacramento, and San Francisco to provide operational services directly to the local courts, particularly in the areas of technology, finance, legal matters, and human resources. Other services to the courts include research, communications, jury service improvements, grant administration, and innovative court programs.

The branch's greater fiscal stability paved the way for long-range, strategic planning so that local courts could work toward the judiciary's overall goal of improving access to justice. Two of the first reforms were the one-day or one-trial rule in jury selection and improvements to assist families and children involved in the court system. As part of its strategic plan, the Judicial Council and the Administrative Office of the Courts formed the Center for Children and the Courts in 1997. The center was eventually merged with the Statewide Office of Family Court Services to create within the AOC the Center for Families, Children & the Courts, which provides research, advice, general support, and other services for the superior courts.

### Education and Training Standards

An education and training program for trial court employees was made possible by the Trial Court Employment Protection and Governance Act of 2000, which transferred court staff from

**2005 continued**

**State appropriations limit (SAL) applied to trial court funding**

**Phoenix Human Resources System initiated**

**California Criminal Jury Instructions (CALCRIM) approved**

**Uniform standards for funding court security instituted**

**2006**

**Blue Ribbon Commission on Children in Foster Care created**

**Domestic Violence Practice and Procedure Task Force established**

**Strategic plan updated**

county to trial court employment. In accordance with its strategic plan, the Judicial Council consolidated the AOC’s administrative education unit with the Center for Judicial Education and Research (CJER) to provide coordinated educational opportunities for the state’s judges. Starting with mandatory education for new judges in 1996, the council eventually expanded that in 2006 to establish a comprehensive minimum education program for all trial court judges, commissioners, court executives, managers, supervisors, and other court personnel. The program was extended in 2007 to include the justices and staff of the Supreme Court and Courts of Appeal and the entire staff of the AOC.

**Improved Collections**

With the shift to state funding has come a unified approach for collecting court fees, fines, and forfeitures. To address the overwhelming numbers of uncollected payments, the Judicial Council created a collaborative working group on collections in 2004 composed of representatives from trial courts, county governments, and state agencies. In the first year, collections increased by 27 percent over the previous fiscal year, and more than 25 courts created or improved their collection programs.

Also in 2004, the Judicial Council approved new standards to improve collections of fees, fines, and forfeitures

by the trial courts. The new standards are being used to capture funds to be used for improving public services provided by the state, the trial courts, and county governments. Benchmarks of a 34 percent gross recovery rate and a 31 percent success rate were established for collection of delinquent court-ordered debt. As of July 2008, an estimated 80 percent of statewide collection programs were meeting or exceeding those two benchmarks.

**State Responsibility for Court Facilities**

Reversing more than 150 years of county governance, in 2002 the Legislature agreed to shift ownership and maintenance of court facilities from the counties to the state. With the Trial Court Facilities Act of 2002 the courts could begin solving one of the major issues facing the branch. The AOC Office of Court Construction and Management was established in 2003 to oversee the transfer of courthouses to state governance. While the transition has been complicated and at times slow, the eventual practical effect of this effort will be to achieve the judiciary’s goal of providing safe, secure, and adequate court facilities for all Californians throughout the state.

As of October 2008, 208 of the state’s 451 court facilities had transferred from the counties to the judicial branch, including the Long Beach courthouse in

Los Angeles County. In the words of Chief Justice Ronald M. George, “Our judicial system does not need, want, or expect palaces. But it does deserve facilities that are secure, well maintained, and adequate to serve the public’s needs.”

**Development of Modern, Branchwide Systems**

One of the greatest benefits of state funding and trial court unification has been the development of up-to-date technology to assist the courts in their management of cases, calendars, juries, records, exhibits, and statistics as well as in the operation of their financial and human resources systems. These activities previously had been handled by the counties or sent out to private contractors. With the shift to state funding, many courts found themselves lacking the expertise or resources to handle these tasks successfully on their own.

Four technology projects managed by the AOC will bring comprehensive and consistent operational systems to the trial courts. The Phoenix Program consists of a financial system and a human resources system. The Phoenix Financial System provides accounting and financial services, a centralized treasury system, trust accounting services, and core business analysis and support. The Phoenix Human Resources System will eventually allow trial courts to manage their pay-

**2007**

**Commission for Impartial Courts created**

**2008**

**Bench-Bar-Media Committee created**

**Selection of vendors under way to establish Court Case Management System**

**SB 1407, \$5 billion court construction bond approved**

roll, employee benefits, time records, and other personnel administration needs. The California Courts Technology Center offers a shared services environment so local courts can provide security for their databases, recover data in case of disasters, manage e-mail, and use virtual private networks and support services.

Still on the horizon is the ambitious Court Case Management System (CCMS), which will unify case management systems in the state's trial courts. A key component of CCMS is its ability to electronically compile, display, update, and exchange case information and associated documents across local jurisdictions. It will enhance the quality of justice by improving the judicial branch's ability to collect and analyze court information and to make it available to the public and the court's justice partners, such as the Department of Social Services and law enforcement agencies.

### **Responsive and Responsible Service to the Public**

With its ultimate goal of providing equal access to justice, the Judicial Council has relied on stable funding, unity, and long-range planning to tackle formidable problems that affect both the judicial system and society. To be sure, the Judicial Council undertook systemwide reforms before 1998,

but those efforts accelerated in quality and quantity with the advent of more stabilized state funding. Those reforms range from jury management to self-help initiatives to substantive reforms in such areas as probate and the treatment of foster children.

The Judicial Council's Domestic Violence Practice and Procedure Task Force, for example, responded to a 2005 report by the state Attorney General's office that pointed out problems in the handling of domestic violence cases. The task force developed 139 new guidelines and practices to improve the way in which the state's trial courts handle such critically important cases.

The Blue Ribbon Commission on Children in Foster Care, created in 2006 and chaired by Supreme Court Associate Justice Carlos R. Moreno, issued 79 recommendations designed to get children out of foster care and into permanent and safe homes where they will be supported and nurtured on the path to becoming productive, responsible adults.

In 2007, Chief Justice Ronald M. George appointed the Commission for Impartial Courts, chaired by Supreme Court Associate Justice Ming W. Chin, to find ways to safeguard the quality, impartiality, and accountability of California's judiciary and avoid the politicization of judicial elections that has plagued many other states. The commission has intensively studied judicial selection and retention, judi-

cial campaign finance, judicial candidate campaign conduct, and public information and education and will make its recommendations to the Judicial Council in 2009. Most recently, the Chief Justice appointed a Bench-Bar-Media Committee, chaired by Justice Moreno, to foster the relationship between three key judicial system stakeholders.

Progress does not always occur in a straight trajectory, but the branch is on a steady path to meeting the needs and goals of the future. Funding stability and the emergence of a unified judicial branch speaking with one voice clearly have led to demonstrable improvements in providing all Californians with equal access to justice.

With the foundation of the last decade's progress and a shared commitment to continued progress, the California judicial branch can realize the vision for the year 2020 articulated by the Commission on the Future of the California Courts in 1993: "a high-quality justice system, accessible to all Californians." RR

*Philip R. Carrizosa is managing editor of California Courts Review and a senior communications specialist at the Administrative Office of the Courts.*



# Voices

## OF THOSE WHO WERE THERE

**By**  
**Claire Cooper**

**T**he road to state funding of the trial courts was long and arduous. First envisioned in the 1970s, the shift from bifurcated county and state funding took the determined commitment and unyielding effort of many people, ranging from Chief Justices and governors to legislative leaders, local judges, court administrators, and lobbyists. Here are the recollections of some of the key movers and shakers.

**Phillip L. Isenberg**, former chair of the Assembly Judiciary Committee, now a lobbyist

**I**n 1991, Governor [Pete] Wilson faced a major state budget crisis not of his making. He eventually agreed to roughly \$7 billion worth of taxes and \$7 billion worth of cuts and tricks to solve the problem.

That year's budget battle led to a major restructuring of the complicated mess of jointly operated state and local programs. The Legislative Analyst advised it was impossible to have a competently run program if the people who authorized and paid for the programs did not also administer them. We

transferred health and social service programs to the counties, along with a stream of revenue to pay for the programs. In the latter stages of this process, the courts popped up.

The deal we eventually arrived at gave the courts more money and empowered them to self-administer how it was spent. After all, courts are not a typical state agency but a co-equal branch of government. But the courts had to become more efficient. We were hearing about courtrooms that were closed because available judges had no jurisdiction over backlogged cases. Consolidation of the superior and municipal courts became a way to achieve efficiencies.

All of this was in service to larger goals of rationalizing management and decisionmaking instead of just giving money away. Clumsy and awkward as it all was, it worked.

### **Diane M. Cummins**, former chief deputy director, Department of Finance

The trial court funding proposal made in the 1996–1997 budget was the culmination of many years of trying to figure out how to get more funding into the courts.

In the 1990s, after shifting almost \$2 billion in property taxes from the counties to the schools, the administration spent a lot of time talking about ways to mitigate the impact on the counties. A policy proposal, called “The State and Local Alliance for Public Safety,” was floated in ’96 and ’97. One piece of it was recognition that the courts played an integral part in the public safety continuum, and that that piece should be funded in greater measure by the state. A proposal was made to freeze the counties’ contributions to the courts with future increases in costs to be borne by the state. That proposal was incorporated in Governor Wilson’s proposed 1996–1997 budget.

Trial court funding didn’t pass that year, largely because of labor issues. But the Governor and Finance thought it was important enough to propose again in the budget for 1997–1998.

When trial court funding actually passed the Legislature, we had a little bit more money because we were coming out of bad budget years. The decision was made to buy out the small counties’ share of costs, providing more relief for them than we had anticipated at the outset.



Phillip L. Isenberg

### **Martha M. Escutia**, former chair of the Assembly and Senate Judiciary Committees; author of the Lockyer-Isenberg Trial Court Funding Act



Martha M. Escutia

It was not an easy bill at all. A lot of parts of the puzzle had to be positioned properly to ensure a positive vote and the Governor’s signature.

For some reason the Senate Democrats did not want to be helpful. My original bill was killed in the Senate Judiciary Committee.

In the Assembly I had to walk a fine line between Democrats and Republicans. The Republicans were very honest about their partisan responsibility, as was I, but in between there was a whole lot of room to negotiate. I had to take care of the union employees. The Republicans were concerned about protecting local government revenues. We worked out provisions addressing both concerns.

I ended up naming the bill after Phil Isenberg, who was no longer in the Legislature, in recognition of the years he spent on this legislation. Bill Lockyer asked me to name the bill after him, too, and when the President pro Tem of the Senate asks, you have to do it.



Anthony Williams

**Anthony Williams**, former budget and legislative staff member, Administrative Office of the Courts; former senior advisor to Senator John Burton

The labor unions had been trying to get collective bargaining rights for court employees, and that debate got caught up in the discussion of trial court funding. The basic issue was the right to bargain collectively over noneconomic issues.

We did not resolve that question before the first trial court funding bill was killed on the last night of the 1996-1997 legislative session. But by the time we got to a vote on the second bill, we were able to resolve it.

The breakthrough came when labor and the courts agreed to leave a lot of the issues to a task force. Later, in 2000, a separate bill was passed, creating a new employee classification with a separate grievance system.



Rubin Lopez

**Rubin Lopez**, former legislative representative and consultant, California State Association of Counties

We had to convince the counties that state funding was a good idea. The tag that got them interested was a cap on their fiscal responsibilities that would actually work.

But how do you arrive at a solid number for what a county is going to pay? There was much angst at first and many complications to sort out. The counties needed assurance that they would not ultimately be forced to pay more to support the trial courts. It took a great deal of effort on everyone's part to make sure the counties' fiscal obligation reflected the costs that historically were recognized as legitimate trial court operation costs.

Despite the ups and downs, I think the reorganization made real fiscal sense for the counties.



Robert M. Mallano

**Robert M. Mallano**, presiding justice of the Court of Appeal, Second Appellate District, Division One

The first thing that happened after I became presiding judge of the Los Angeles County Superior Court was a budget crisis and Governor Wilson took away \$80 million of a block grant for the trial courts. For the Governor it was low-hanging fruit to be plucked in a budget crisis. The Los Angeles courts lost about 500 employees as a result. We realized the idea of block-grant funding wasn't good because the money was too vulnerable.

At that time Los Angeles County was suffering financially because the aerospace industry had gone into a tailspin and property values had dropped about 40 percent. The county was not unwilling to get rid of the responsibility for trial court funding.

It made sense to transfer the responsibility to the state. We wanted a more stable funding source, and at that time the state was a more stable source than the county.

**Ronald G. Overholt**, Chief Deputy Director, Administrative Office of the Courts; former executive officer, Superior Court of Alameda County

Under county funding we had a different branch of government deciding for this branch what was really important—not only a different branch but 58 boards of supervisors, which resulted in a disjointed approach to justice across the state.

In counties where law and justice were top priorities for the supervisors the courts might be funded well. Alameda County supervisors were more focused on health and welfare issues. Courts weren't among their top priorities.

We're also no longer subject to the peaks and valleys of county revenues. Even in a difficult state budget year such as this one, more money was added to the trial courts' budget than was cut, and the trial courts will be getting more money than last year.

**Michael M. Roddy**, executive officer,  
Superior Court of San Diego County;  
former executive officer, Superior Court of  
Sacramento County

Before state funding went into effect, Sacramento County was facing some lean years. We had to defend our court budget to the board of supervisors over and over. At one point we were talking about whether the county would fund the civil court system because they viewed it as a discretionary expenditure.

I always knew what kind of year we would have by our position on the calendar when the supervisors took up budgeting. If we were behind the district attorney and sheriff, I knew it was going to be a good year. If we were behind libraries, parks, child welfare, I knew that it was going to be a rough year, and we were going to be in direct competition with those services.

In San Diego as well as Sacramento, the county could freeze the court's accounts. They could delay our payments. They could purposely underfund certain programs to balance their budget.

In the state-funded environment the courts still have to fight for resources, but there's greater appreciation for the courts as a branch of government.

**Dennis E. Murray**, presiding judge  
of the Superior Court of Tehama County

All trial courts had the same responsibilities before state funding, but many of us lacked adequate resources.

Tehama was one of the lucky courts. We had a lot of support from our county. But in some small counties clerks' offices were working shortened hours because of inadequate resources and funding.

Security has been a significant issue. When we were county funded, we essentially had no security other than the bailiffs in our courtrooms. We had no perimeter security. Certainly our courthouses are safer places than they were 10 years ago.

Our security still depends on the adequacy of the county's funding of the sheriff, however. Consideration should be given to the courts' taking greater control over security or to the creation of a state agency to provide trial court security.



Michael M. Roddy

**J. Clark Kelso**, professor of law and  
former court consultant

My strongest recollections are of how much opposition there was initially within the judicial branch to both trial court funding and court unification and then the long process of discussion and negotiation.

There was fear of a power grab by the Judicial Council and the Chief, a fear that everything would be run out of San Francisco.

Another concern was that trial court budgets would be subject to Sacramento politics. There was concern that some courts in resource-rich counties never could have a relationship with Sacramento that they had with their local governments.

Another concern was that a future Chief Justice might not have the same special relationship with governors and the Legislature that Ron George has had—his political sense or energy in making sure that the relationship between the branches is a strong one.

An enormous amount of time was spent talking through what the changes really were, what the intention behind them was, how we could put in place protections against what the opponents feared.

One of the key compromises was to codify a decentralized system of trial court management. The idea was that the Judicial Council would have its role in allocating funds, but the trial courts would still manage their day-to-day operations.



Dennis E. Murray



J. Clark Kelso





William A.  
MacLaughlin

## **William A. MacLaughlin**, Judge of the Superior Court of Los Angeles County

Los Angeles County had historically been very supportive of the courts and quite progressive in providing funding for improvements. There were so many uncertainties about state funding that the transition was of great concern to the majority of Los Angeles Superior Court judges who were aware of the issues.

In Los Angeles we don't think we're as well off under state funding as we were under county funding. There's nothing inherently wrong with state funding. But the success or failure of any funding system depends on the adequacy and predictability of the funding and the degree to which the court is involved in the budget process.

As far as Los Angeles is concerned, we feel the adequacy of the funding is less now than it was with the county. There are systemic flaws in California's budget process that result in uncertainties that make long-term planning very difficult, and our court's reduced influence in the judicial budgeting process makes the results less satisfactory.

In the days of county funding, both the presiding judge and the court executive had a continuing relationship with the supervisors and the county's fiscal officers. We literally could walk across the mall and show them why it was in the county's interests to do something. We didn't do it often. But the county was open to hearing from us. In lean times we wouldn't necessarily get the budget we needed. But that was a rarity.

One of the problems in California is that we have trial courts with two judges and we have in Los Angeles the largest court in the world. With state funding we have a centralized system that does not sufficiently distinguish among the different courts that constitute the judicial branch. But we understand the difficulties and understand that no situation will ever be perfect.



Frederick K.  
Ohlrich

## **Frederick K. Ohlrich**, Clerk of the California Supreme Court; former administrator, Los Angeles County Municipal Court

The Los Angeles County Municipal Court favored state trial court funding. Our approach to it was to become heavily involved with the Administrative Office of the Courts so we would know what was happening and how to deal with and affect the state funding process. Our finance division worked closely with the AOC's financial staff, familiarizing them with the operational and budget needs of the municipal courts.

While Los Angeles County generally had treated its courts very well, I felt that the quality of justice in California would be improved and the state's citizens and courts would be better served in a state-funded court system where resources were more equalized.

Even in Los Angeles County, the 24 separate municipal courts had been treated disparately, depending on how much revenue they produced for the county and how well the court administrator and the judges worked with the county board of supervisors. Now, with a unified state-funded court system, the Los Angeles County Superior Court, not the board of supervisors, fully controls the allocation of the court's resources.



Steven E. Jahr

## **Steven E. Jahr**, judge of the Superior Court of Shasta County; former chair, Trial Court Budget Commission

Years before adoption of the current court funding system, the Judicial Council under former Chief Justice Malcolm Lucas developed certain goals. One was equivalency of public access to the courts in different parts of the state. Another was to develop the ability to engage in long-term planning to ensure equal access. At the outset the Judicial Council had no way even to measure the inadequacies.

Chief Justice Lucas appointed the Trial Court Budget Commission to get its arms around these un-

knowns, create a method for assessing the financial picture of each court and its funding requests, and, ultimately, recommend allocations for each of the courts.

When we began compiling information for our first budget year, each county had its own accounts and bookkeeping and financial systems. There was no transparency, not because anybody was trying to avoid detection but because there wasn't a uniform system of reporting budgets and expenditures.

The budget commission also was tasked with dealing with sensitive political issues between the courts. Several courts had strong relationships within their financially strong counties. They were not dependent on the state and were not enthused about having their operations funded at the state level. At the same time the majority of courts were in difficult straits, and some were in dire straits. A commission composed mainly of trial court judges was essential to provide local courts an avenue for venting their concerns.

Chief Justices Lucas and George and Judge Robert Mallano, an early budget commission chair, were especially heroic in mediating these problems. Bill Vickrey and Kiri Torre at the Administrative Office of the Courts persevered to create a sound budget evaluation system.

### **Alan Slater**, former chief executive officer, Superior Court of Orange County

Orange County declared bankruptcy in 1994. As a result, our court was hit hard with immediate budget reductions. Even after a few years we did not recover sufficiently, so we had to initiate proceedings against the county for refusing to provide adequate funding to cover our needs. The lawsuit was just about to go to trial when state trial court funding passed the Legislature.

Eventually, we settled our suit for about \$4 million plus attorney fees and costs. That helped us get by until state funding started.

In the beginning state funding was administered by the Trial Court Budget Commission. The process

eventually disintegrated into intercourt battles, often between the smaller courts and the larger courts represented on the commission.

Under the current Trial Court Budget Working Group decisions have been made at the macro or policy level, and this has been more effective. The AOC has come up with models to tell whether courts are funded well or not, and state-funding templates and standards have been developed for many budget line items, including court security, interpreters, court-appointed counsel, and additional judges.



Alan Slater



Ken Torre

### **Ken Torre**, former member, Trial Court Budget Commission; former executive officer, Superior Court of Contra Costa County

The early budget commission meetings were raucous. The initial culture was very much "my court's interests" versus the interests of the branch. Slowly, over the years, there evolved a membership that embraced a branchwide view of the important policy recommendations that had to be made.

At the initiation of trial court funding, the Administrative Office of the Courts and the budget commission were dependent on erroneous and disparately defined financial data. Making decisions was horrible. You would ask the cost of a certain function and then try to follow up on the same question a couple of months later and get different answers each time.

Putting all the courts on one financial management system has permitted accurate data to be gleaned and policy decisions to be made with a statewide perspective.



John Mendes

## John Mendes, executive officer, Superior Court of Placer County

Trial court funding set in motion further important changes, including state responsibility for court facilities. I've been involved in statewide working groups on facility modifications and maintenance.

We've processed more than 800 court modifications. So far the estimates are about \$21 million for much-needed projects. Additionally, between March and August of 2008, more than 1,900 maintenance jobs were completed in the courts in northern California alone. Before state funding a minor maintenance or remodeling job would be a county cost.

If the county had more pressing needs, the work wouldn't be done in Placer County, and I think the situation probably was similar across the state.

Recently the Governor signed revenue bonds for new courthouse construction. So now the branch also has the ability to build the courthouses needed to carry out the courts' mission.

Tamara Lynn  
Beard

## Tamara Lynn Beard, executive officer, Superior Court of Fresno County

The way we work with our employees and employee groups has changed significantly under state funding. Being responsible for our own personnel system has given us a bigger bang for our personnel buck.

However, with this new flexibility have come huge responsibilities. We now are responsible for negotiating with our employee units, and sometimes we may be operating in the dark as to how much money we'll get from the state to pay for what we negotiate.

Labor negotiating is far more difficult than anything we had expected. To this day court execs are learning from each other. Obviously, if one court agrees to something unwise, it could have consequences for the other 57 courts.

Overall, I'm very happy that we separated from the county. For two years now Fresno County has been threatening its employees with takebacks of negotiated salary increases, layoffs, and increased employee costs for existing benefits. While all this is going on, the Fresno court has managed well financially, and we have been able to honor what we have negotiated.

## Tressa S. Kentner, executive officer, Superior Court of San Bernardino County

We used to compete with other county departments for employees. The board of supervisors would tell us how many employees to hire in what classification. We now have control over classification, recruitment, compensation, and promotion, which is a really big deal. The Administrative Office of the Courts doesn't tell us, for example, because you have five judges, you have to have five courtroom clerks. It has model classifications, but we're not mandated to use them.

One thing that's terrific is a special way we've adopted to hire and promote clerical staff for our clerks' offices. We got the idea from Alameda and San Joaquin Counties. Under the county-run system, we had to recruit separately for each of several levels, and applicants had to pass civil service exams that didn't necessarily relate to job duties or performance. Now we hire trainees, and they promote on their own by passing a series of tests and skill assessments. Our system is specifically based on evaluating someone to do the job that we need them to do.

Tressa S.  
Kentner

**Gary Gwilliam**, past president,  
Consumer Attorneys of California


I'm a plaintiffs' lawyer, and our clients want to get to trial. There was a time in the 1980s when that took five years or more. The insurance companies wouldn't pay off, and people were really frustrated that they could not get their day in court.

We don't hear about that anymore. Sometimes people feel they're forced to go to trial before they've completed discovery, though for the most part the courts are sympathetic to the lawyers' needs.

The quality of justice also has improved. Before state funding you couldn't be sure what you were getting into if you had a case in some small counties. You can still get a judge who isn't up to speed. But for the most part that situation has greatly improved, too.

**Roger K. Warren**, president  
emeritus, National Center for State Courts;  
scholar-in-residence, Judicial Council of  
California

What the California judiciary deserves to be proud of is not just that it achieved state trial court funding but that it seized the opportunity created by state funding in a bold way, one unparalleled across the country.

The California judicial branch had the vision and leadership to address fundamental challenges that face any court in the 21st century: fair and impartial courts, judicial independence, sentencing reform, foster care, domestic violence, court interpreters for non-English-speaking litigants, jury reform, services and facilities for self-represented litigants. In all of those areas California was able to accomplish much more by approaching the problems statewide rather than one court at a time. 

*Claire Cooper is a Bay Area freelance writer and was formerly legal affairs writer for the Sacramento Bee for more than 28 years.*



Gary Gwilliam



Roger K. Warren



**A**lthough trial courts had been attempting to coordinate the administration of court services since the passage of the Trial Court Realignment and Efficiency

Act of 1991, unification itself did not occur until 1998, the same year state trial court funding went into effect. That year Californians voted to adopt Proposition 220, which provided for voluntary unification of superior and municipal courts. By 2001, all 58 counties had unified their trial courts into a single, countywide superior court. Below are excerpts of some of the letters that presiding judges and executive officers wrote in early 2001 to report the effects of unification to Chief Justice Ronald M. George and William C. Vickrey, Administrative Director of the Courts.

The most evident advance resulting from unification to date has been the enhanced fungibility of judicial resources within the court. A significant redesign of the criminal case assignments yielded judicial resources that were then shifted to address the juvenile, family law and general civil components of the court's workload. . . . Economies of scale have resulted from . . . centralizing the previously separate systems. The court is in a better position when negotiating in labor relations, contracting issues and purchasing agreements. A singular administration is better able to provide consistent hiring, recruitment and compensation practices, in addition to the increased opportunities for staff to be able to advance in a larger court organization. Budget planning and development [have] been enhanced as a result of unification. The court now utilizes a centralized forum for discussing program merits and relative priorities in addressing the court's needs according to the strategic plan. Greater opportunities exist to . . . manage . . . costs and revenues.

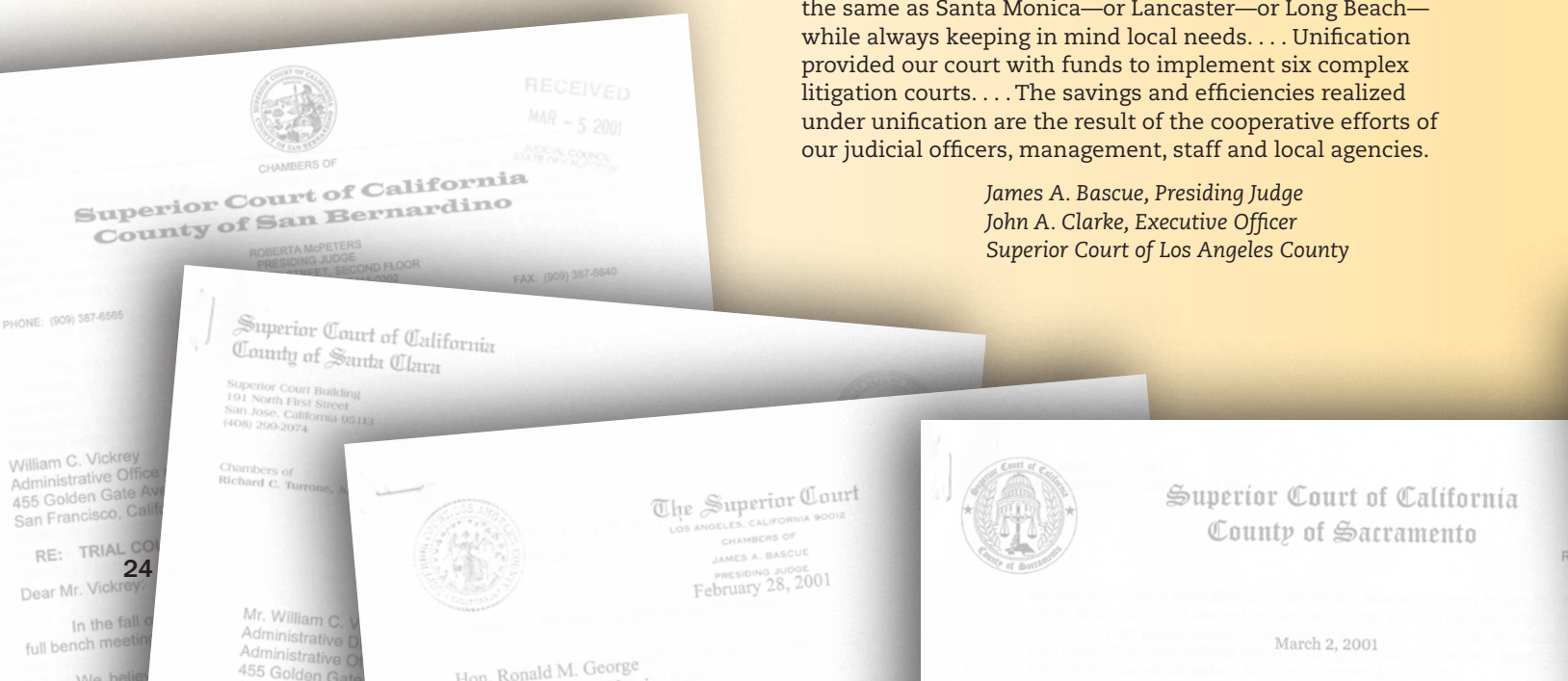
*C. Robert Jameson, Presiding Judge  
Superior Court of Orange County*

Trial Court unification has proven beneficial to the citizens we serve in the following ways: we have created greater access to the Courts[;] . . . we have increased administrative and judicial efficiency and innovation[;] and . . . we have virtually eliminated delay in both the civil and criminal caseloads.

*Richard C. Turrone, Presiding Judge  
Superior Court of Santa Clara County*

We . . . are pleased to report many improvements in services to the public and efficiencies in case management. . . . [T]he court has accrued more than \$1.2 million in fiscal savings. . . . We have also experienced significant improvements in our quality of service. . . . The number of sites where the public can obtain Domestic Violence Temporary Restraining Orders [has] expanded from 12 to 17 with an additional 8 sites to be implemented over the next several months. . . . With unification, we have blended 25 organizations and are examining all litigation types from a Countywide perspective to bring uniformity and improved case processing where possible. We are working on revising forms, procedures and computer applications to ensure that justice is delivered in Pomona the same as Santa Monica—or Lancaster—or Long Beach—while always keeping in mind local needs. . . . Unification provided our court with funds to implement six complex litigation courts. . . . The savings and efficiencies realized under unification are the result of the cooperative efforts of our judicial officers, management, staff and local agencies.

*James A. Bascue, Presiding Judge  
John A. Clarke, Executive Officer  
Superior Court of Los Angeles County*



# Letters From the Courts

## What the courts said after unification

The further enhancement of administrative consolidation that resulted from court unification has allowed the court to streamline operations, reduce duplication, and realize cost savings. We have reduced staffing, including supervisory and managerial positions, and we have been able to more efficiently utilize our facilities, supplies, and services, thereby holding down an expected growth in these expenditures.

With the increased cooperation and creativity brought about by consolidation, the court has re-engineered numerous operational and support areas, including civil, felony, records, legal research, appeals, and administrative support. This has given us the opportunity to improve both internal operations and external customer service. We have instituted both a Drug Court and a Domestic Violence Court, enhanced the services to parties appearing in family relations actions, and partnered with community-based and governmental organizations on issues relating to juveniles.

*Richard K. Park, Presiding Judge  
Superior Court of Sacramento County*

There has been an increase in the number of trials, better utilization of jurors, and improved utilization of cross-trained staff. The unification has changed the culture of the court and provided enhanced services to the public.

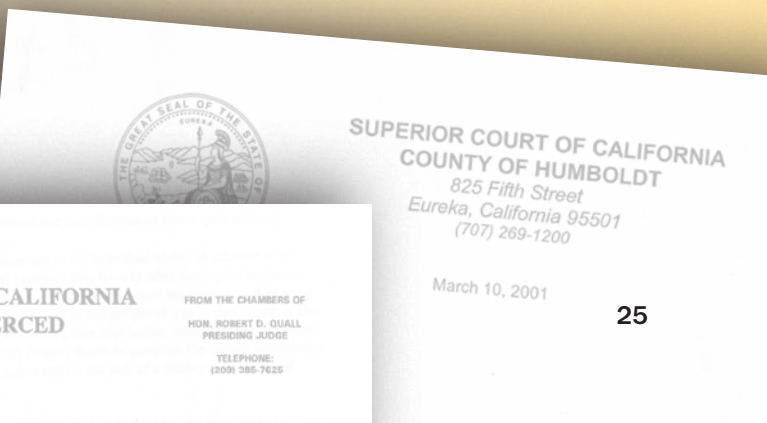
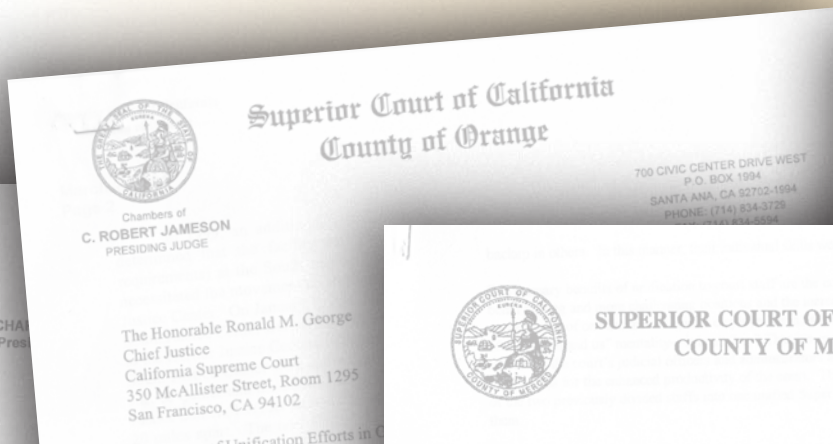
*Dwight W. Clark, Executive Officer  
Superior Court of Humboldt County*

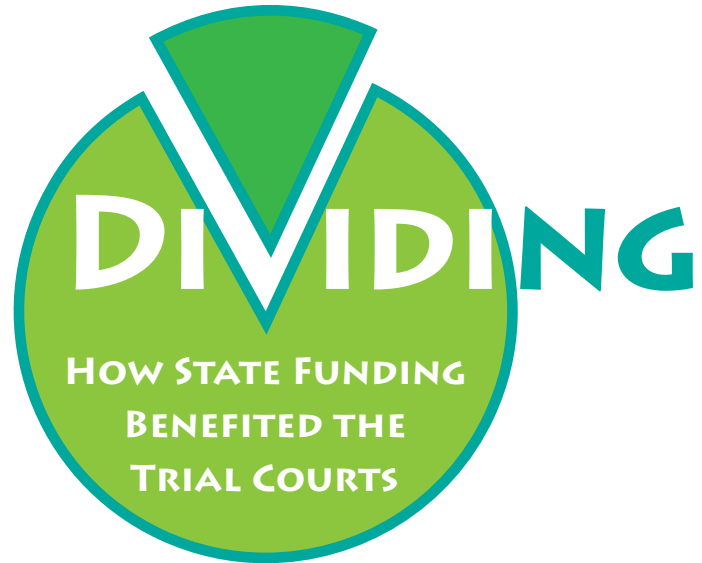
San Bernardino County's aggressive efforts to unify the courts have not been without challenges for judges and administrators alike. But . . . the rewards have been greater than the challenges. The most important of [those rewards] is the greater delivering of court services to the public and the more timely access to justice.

*Roberta McPeters, Presiding Judge  
Superior Court of San Bernardino County*

The primary benefits of unification to court staff are the enhancement of [employees'] ability to advance [into] better paying and more challenging positions and the increased exposure they have to other employees to gain an appreciation of one another as skilled employees and as individuals. With that exposure has come a melting away of the "them and us" mentality—it is all "us." That increased awareness of our personnel's individual worth is also shared by the court's judicial officers and administrators and now, more than ever before, staff is called on to make suggestions for the enhanced productivity of the court. . . . In light of the major changes over the last few years in the trial court system[—]state funding, the breakaway from counties[—] unification could not have come at a better time. . . . Without the combined resources of a unified court, we would be hard pressed to effectively manage the necessary, corresponding changes in our organization.

*Leland P. Haugen, Court Fiscal Officer  
Superior Court of Merced County*





Over the past decade, the California court system has experienced several fundamental changes that have significantly altered the face of the judiciary and the way the courts conduct business. These changes included trial court unification, the Trial Court Employment Protection and Governance Act, the one-day or one-trial jury system, and the Trial Court Facilities Act of 2002. But perhaps none has had a greater impact than Assembly Bill 233, the Lockyer-Isenberg Trial Court Funding Act of 1997.

This landmark legislation resulted in the consolidation of funding for the trial courts at the state level after years of advocacy by bench and bar leaders and, particularly, Chief Justice Ronald M. George. This restructuring of court funding was intended to:

- Provide stable, consistent funding for the courts
- Promote fiscal responsibility and accountability by managing resources in the most efficient and effective manner
- Recognize that the state is primarily responsible for funding the courts, enabling the courts, state, and counties to better engage in long-term planning

- Enhance equal access to justice by removing disparities resulting from the varying ability of individual counties to meet the operating needs of the courts

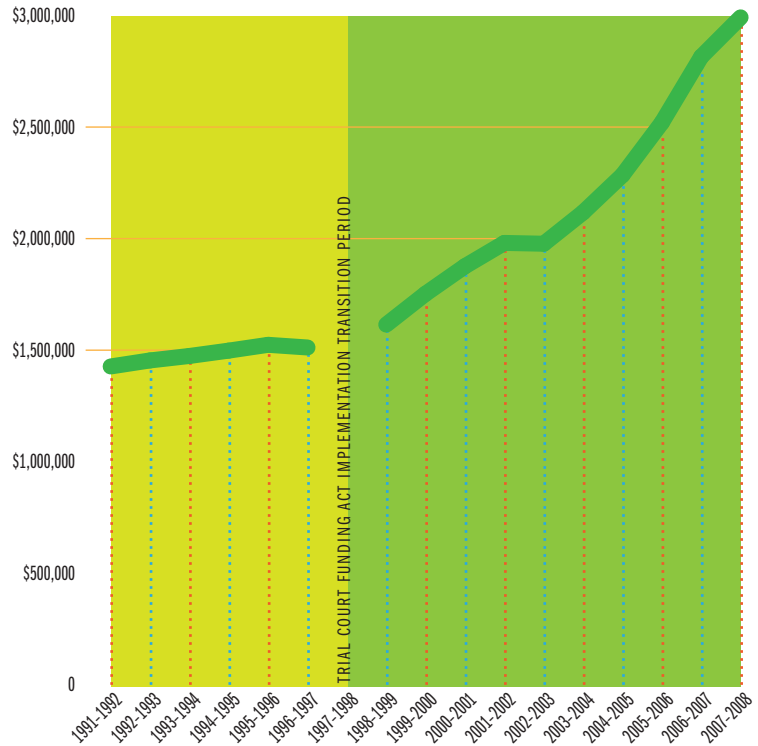
Have the goals been met? From a simple budgetary standpoint, the numbers speak for themselves. In the past 10 years, trial court funding has nearly doubled, from \$1.67 billion in January 1998 to well over \$3 billion today. Recent milestones, such as the uniform civil fee structure and the implementation of state appropriations limit (SAL) funding, have further enhanced equal access to the courts and stable, ongoing funding. In addition, because of the trial court funding act, trial courts are unique in state government in that they have the authority to carry over funds from year to year.

# THE PIE

By  
Robert E. Fleshman


## Trial Court Expenditures by Fiscal Year

In thousands of dollars



**Sources** FY 1991-1992 through FY 1996-1997: Judicial Council/Administrative Office of the Courts, *Legislative Briefing* (Feb. 1997); FY 1998-1999 through FY 2006-2007: prior-year actual expenditures reported in Governor's Budgets; FY 2007-2008: year-end financial statement.

Certain challenges in state funding remain—historical underfunding may still exist for some courts, and being tied to state funding subjects courts to fluctuations in the California economy. Courts recently received a harsh reminder of their reliance on the Governor and Legislature to provide funding for legislative mandates—something that did not occur for new conservatorship laws that took effect in July 2007.

Despite these hurdles, state courts are in a better position than just a decade ago, with more authority to make decisions at the local level and manage their finite public resources. Court users seeking to access our fair system of justice find more uniformity and predictability statewide. And that's progress, no matter which way you look at it. 

*Robert E. Fleshman is a supervisor in the Finance Division of the Administrative Office of the Courts.*

**79%**

Percentage of states that have the state Administrative Office of the Courts prepare judicial branch budgets

**78%**

Percentage of states that receive more than half of their court budgets from the state governments

**Source** National Center for the State Courts, 2004 study. *Ed. note:* For the second item, only 32 of 50 states responded. ([www.ojp.usdoj.gov/bjs/abstract/sco04.htm](http://www.ojp.usdoj.gov/bjs/abstract/sco04.htm))



# Funding the Courts

Trial courts receive both direct and indirect support through a number of funds. Here are the primary ones that support the administration of justice in California.

## Trial Court Trust Fund (TCTF)

**WHAT IT IS:** The primary funding source for court operations.

**WHERE IT COMES FROM:** State General Fund appropriations, county maintenance-of-effort payments, and fee revenues are the main sources.

**WHERE IT GOES:** The Judicial Council allocates TCTF monies to courts for court operations, including staffing costs and court security, as well as reimbursement costs for dependency counsel, jury per diems, court interpreters, and judicial compensation. The Assigned Judges Program—which assigns active and retired judges to temporarily cover vacancies, illnesses, disqualifications, and calendar congestion in the trial courts—is also funded from the TCTF.

## Trial Court Improvement Fund (TCIF)

**WHAT IT IS:** Established by the Legislature as part of the Lockyer-Isenberg Trial Court Funding Act of 1997 (Gov. Code, § 77209) and supports ongoing statewide programs and projects.

**WHERE IT COMES FROM:** The Judicial Council is required to transfer 1 percent of its annual appropriation for support of trial court operations to the TCIF and to set aside at least one-half of that amount as a reserve that may not be allocated before March 15 of each year “unless allocated to a court or courts for urgent needs.” (Gov. Code, § 77209(b).) Additional revenue comes from criminal fines, forfeitures, and state penalties. Unused funds are carried over to the next year.

**WHERE IT GOES:** The fund is available to address deficiencies and other emergencies. Monies deposited into the TCIF also may be used to implement programs and projects that support the courts, as approved by the Judicial Council.

**EXAMPLES OF TCIF-FUNDED PROJECTS:** The Judicial Council’s Litigation Management Program, through which courts, judicial officers, and court employees are defended and indem-

nified for court-related claims and lawsuits; the council’s Judicial Performance Defense Insurance program, through which judicial officers receive legal defense in matters before the Commission on Judicial Performance; support for trial courts’ self-help centers provided through the AOC Center for Families, Children & the Courts; the Comprehensive Collections Program managed through the AOC Southern Regional Office; and the several statewide trial court infor-

## Helping Underfunded Courts

By Leah Rose-Goodwin

The Judicial Council approved the use of the Resource Allocation Study (RAS) methodology in 2005 to identify historically underfunded courts and to direct supplemental funding to those courts with the greatest need of additional resources.

In three successive budget cycles, between 2005 and 2007, the RAS model was used to allocate approximately \$32 million in workload growth and equity (WGE) funding to create more equitable funding across courts. Workload growth and equity funding is earmarked out of state appropriations limit funding. The RAS model works in conjunction with SAL funding to make trial court funding more uniform across courts.

In 2005, there were 18 courts whose budgets were 20 percent or more below their projected funding need (see map at right). These courts were mostly located in the Central Valley, Inland Empire, and Sierra Nevada areas.

**RAS** (pronounced "RAZ") **Resource Allocation Study.** Used to address funding needs for courts that are historically under-resourced or courts that are experiencing disproportionate workload growth. The RAS model allows for the comparison of resource needs across the state’s 58 trial courts. The comparison is based on each court’s weighted filings and ratios of courtroom support staff to judicial officers derived from the average levels of court resources used to process filings. Developed after a comprehensive time study and focus groups with 16 trial courts, the methodology may be adjusted in the future to take into account performance and input from the courts.

mation technology projects (including the California Courts Technology Center, Phoenix Financial System, Phoenix Human Resources System, California Court Case Management System, and interim case management systems).

**Judicial Administration Efficiency and Modernization Fund (Modernization Fund)**

**WHAT IT IS:** Like the TCIF, the Modernization Fund was established by the Lockyer-Isenberg Trial Court Funding Act of 1997 and may be used “to promote improved access, efficiency,

and effectiveness in trial courts.” (Gov. Code, § 77213(a)–(b).)

**WHERE IT COMES FROM:** The state General Fund.

**WHERE IT GOES:** Programs and projects that support the courts, as approved by the Judicial Council.

**EXAMPLES OF MODERNIZATION FUND USE:**

The Complex Litigation Program, through which the Superior Courts of Alameda, Contra Costa, Los Angeles, Orange, San Francisco, and Santa Clara Counties have received \$19.498 million for court-based complex litigation programs; the Civil Mediation and Settlement Program

Grants project, which has provided funding and services to 40 trial courts for their alternative dispute resolution programs; educational programs for judges (for example, New Judge Orientation, the Judicial College, mandated family law assignment education, ethics training, and the Continuing Judicial Studies Program) and court staff (for example, the Court Clerk Training Institute and distance learning broadcasts), with the Modernization Fund covering most costs of attendance (including hotel and meal expenses); jury management improvement initiatives; and statewide technology projects.

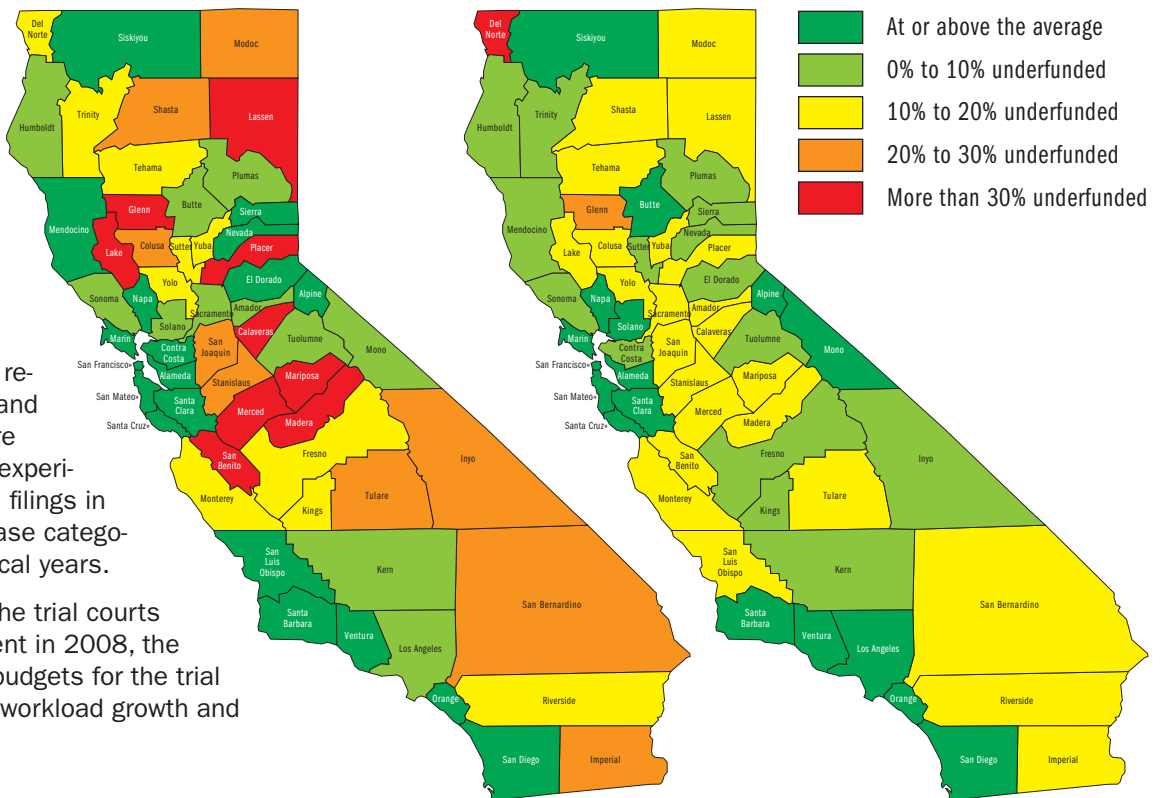
**Courts’ Funding Need Relative to Budget**

*Before Workload Growth and Equity Funding (2005, left) and After Three Annual Distributions of WGE Funding (2007, right)*

By 2007, after three years of workload growth and equity allocations, only two courts were considered severely underfunded (with a budget 20 percent lower than projected funding need). Those courts, the Superior Courts of Glenn and Del Norte Counties, had received workload growth and equity allocations in more than one fiscal year but experienced large increases in filings in several work-intensive case categories over two or more fiscal years.

*Note:* Because none of the trial courts received a SAL adjustment in 2008, the 2008–2009 fiscal year budgets for the trial courts did not include a workload growth and equity component.

Maps by Kevin O’Connell



**SAL State Appropriations Limit.** Current law authorizes the budget for trial court funding to be annually adjusted by a factor equal to the annual percentage change in the state appropriations limit. This funding method was created to achieve stable, predictable funding for the trial courts. The calculation of the SAL is based on a formula that includes the annual changes in cost-of-living and population factors (including K–14 education enrollment). The funding increase provided by the SAL adjustment factor is annually appropriated by the Legislature and included in the trial court funding base for determination of the next fiscal year SAL adjustment.

**Court Interpreters’ Fund**

**WHAT IT IS:** Established by statute (Gov. Code, § 68562(f)).

**WHERE IT COMES FROM:** The primary revenue (approximately \$150,000 annually) comes from fees charged to applicants to take the court interpreter certification examination.

**WHERE IT GOES:** Used to support administration of the court interpreters’ program, including the payment of costs related to test development, test administration, qualification review, and programs for recruitment, training, and continuing education of court interpreters, on appropriation by the Legislature.

**Family Law Trust Fund**

**WHAT IT IS:** Established by statute (Fam. Code, § 1852).

**WHERE IT COMES FROM:** Primarily funded by fees generated by marriage and divorce certificates, approximately \$1.8 million a year.

**WHERE IT GOES:** May be used for purposes specified in statute and for other family law–related activities. Monies unencumbered at the end of a fiscal year are automatically appropriated to the fund for the following year. In order to defray the costs of the collection of these funds, the local registrar, county clerk, or county recorder may retain a percentage of the funds collected (Fam. Code, § 1852(g)).

**The Court Security Budget**

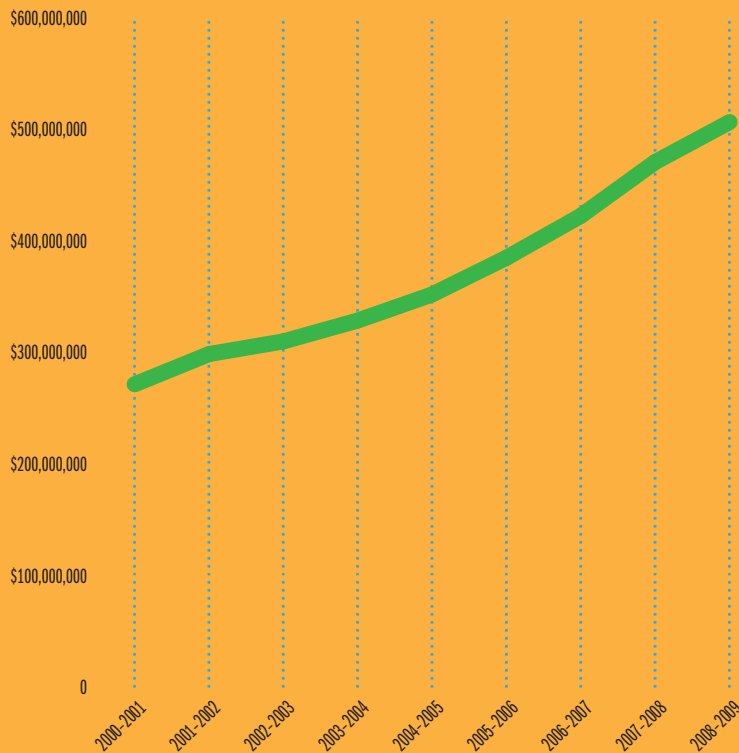
After passage of the Lockyer-Isenberg Trial Court Funding Act of 1997, the state became responsible for court operations, including court security.

The costs of security have soared dramatically since 2001. In 2002, Senate Bill 1396 (Dunn) was enacted, requiring that each of California’s 58 trial courts prepare and implement a court security plan and that each sheriff or marshal prepare and implement a law enforcement security plan.

Cosponsored by the California State Sheriffs’ Association, the bill clarified allowable and unallowable state costs for court security and required the Judicial Council to establish a Working Group on Court Security.

This group, authorized by rule 10.170 of the California Rules of Court, has worked to identify the courts’ various security needs and the associated costs. It remains committed to developing recommendations for achieving operational efficiencies in the provision of court security in order to reduce overall costs.

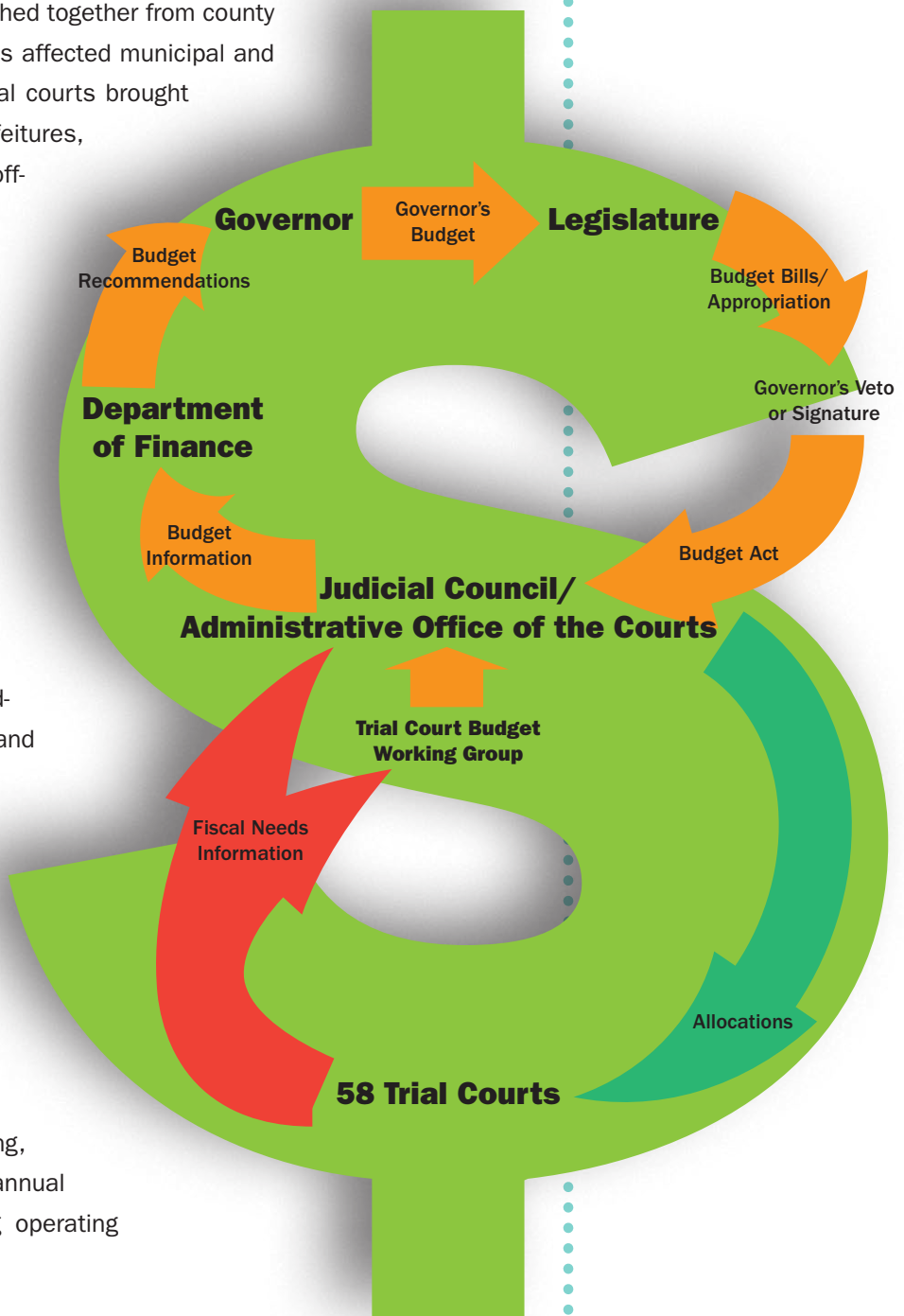
**How Much Is Spent on Court Security?**



## The Trial Court Budgeting Process

Before the arrival of state funding in 1998, funding for trial courts was unpredictable and subject to a county's fiscal health. Court budgets were patched together from county and state contributions. Budget cuts affected municipal and superior courts differently. Municipal courts brought in revenue with filing fees, fines, forfeitures, and other charges, and they could offset the cuts somewhat with their own revenues. The superior courts never had that flexibility.

The current trial court budgeting process is more collaborative. The Trial Court Budget Working Group—made up of presiding judges and court executive officers—advises the Administrative Director of the Courts on budget issues. The Judicial Council and the Administrative Office of the Courts deliver the branch's budget information to the Governor and the Legislature. The Legislature produces an appropriations bill that contains funding for the courts. If the Governor approves it, funding is appropriated to the council, which in turn provides final approval on the allocations and distributes the funding to the trial courts. In addition to any new funding, the trial courts have received an annual baseline funding for their ongoing operating costs since 2005.







A CONVERSATION WITH

Bill Vickrey

## A Personal Perspective



*In his nearly 17 years in the constitutionally created position of Administrative Director of the Courts, Bill Vickrey has worked on many fronts to fulfill the full potential of state funding for California's trial courts. In early November, he was interviewed by Peter Allen, executive editor of California Courts Review, about the struggle to obtain state funding and what it meant to the state's trial courts.*

**CCR: What was the most pressing need in the judicial branch when you came from Utah in 1992?**

**Vickrey:** Actually, there were several. There was no consistency in any direction for the branch. The 220 court jurisdictions in the state were facing severe funding challenges. Courts kept different business hours. They each made their own decisions about which practices to follow and which to abandon, even when mandated by rules of court or statute. So the disparity in justice was growing. Relationships with the legislative branch were very tense because of the state Supreme Court's decision upholding the constitutionality of term limits. Finally, court leaders felt that everybody but the judiciary—the bar, the Legislature, special interest groups—had a say about where the branch was going.

**CCR: What kind of challenges did you encounter?**

**Vickrey:** I think trying to reestablish relationships with the legislative branch so it would be a partner with the court system, as well as trying to get our courts to reach consensus on how we might address the

challenges and opportunities we were facing. And there needed to be a willingness by the Judicial Council to reexamine its processes, its governing responsibilities, and the ways its members were executing them.

**CCR: How did you meet those challenges? What was the significance of local court leadership in bringing about change and adapting to it?**

**Vickrey:** In 1992, after I attended my first council meeting, I had dinner with then-Judge Judy McConnell of the San Diego Superior Court and Judge Roy Wonder from the San Francisco Superior Court, who were both council members. They asked what my impressions were. My first recommendation was that we take a step back and look at what the council's fundamental role was in providing leadership for the branch and then to see whether the processes and procedures and values really supported that role. They were both very enthusiastic, and they both continue to be very strong leaders in our branch. They went back to their colleagues on the council and pushed for having

a planning session that took place in the fall. During that several-day meeting, the Judicial Council restructured its operations, the process of appointing council members, and the role of the council in providing long-term direction based on consensus around specific statewide policies. That meeting also led to the system of the advisory committees we have today, which draws upon the wealth of talent across the state—judges, lawyers, and court staff.

Another thing that occurred in 1992 was a meeting bringing together the local bars, specialty bars, and the State Bar to work with the judicial branch to address the branch's severe funding problems and to implement a system of justice that would provide equal access across the state. The bar organizations became critical in creating a partnership with the Legislature and helping within the branch to develop a consensus and momentum for change. And then, based on those initial planning sessions, in January 1993 we had a meeting in Sacramento where we brought about 350 court leaders together to discuss the restructuring and then held the first meeting of the proposed advisory committees to begin that process.

Those first couple of years we struggled as a branch to really make those things work and to make the planning process and the strategic plans, and then, later, the operations plan, relevant to what we were doing.

### **CCR: Why was state trial court funding so important?**

**Vickrey:** State trial court funding was not simply a tool to provide more money to the courts. The funding is a means to an end. The goal isn't just to manage the courts more efficiently on a day-to-day basis but to effectively manage problems in a way that builds trust and confidence in our justice system. It was based on the idea that we ought to have a system for equal access to the courts, a system of funding in which policy would drive the funding priorities in the state and that would support the judicial branch as a co-equal and an accountable branch of government. The change in funding allowed us to start making progress in equalizing the resources in the courts and to implement reforms, such as the one-day or one-trial jury system, plain English jury instructions, self-help centers, access to interpreters, conflict resolution programs, ADR programs, foster-care and probate reform. Without state funding these things would have been done on a court-by-court basis or even a judge-by-judge basis. They would have been important but often transient initiatives—much like the flare of a sparkler that quickly burns out, they would cease when the judge who began the effort retired from the court or moved to a new assignment.

### **CCR: How has trial court funding changed the role of the Judicial Council?**

**Vickrey:** Before state funding the leadership for the branch was really done through the rules of court. Because funding priorities were handled partially by the state and then by 58 counties, to a large extent the council's role was limited to changing rules of court in response to legislative changes. The problem was that you couldn't set fundamental priorities for the branch to respond to the needs of the public by just changing the rules of court.

The responsibility for funding and allocating gave the council a larger role in its relationship with the executive and legislative branches. The council could advocate for things like the state appropriations limit, for example, to provide a funding guarantee. State funding provided a basis for the other branches to work with the court system in setting priorities, like getting more judges, which has a tremendous effect on equalizing resources in the state and improving access. So the council's new role has provided a way for the branch to speak with a common voice on those needs.

### **CCR: The judicial branch budget has some rather unusual features—special funds such as the Modernization and Improvement Funds as well as the ability of trial courts to carry over funds from year to year. How did they come about, and what advantages do they confer?**

**Vickrey:** Our partners in the Legislature and the Governor's Office—Governor [Pete] Wilson at the time—believed that the court system should dedicate funding for its ongoing improvement, whether that would be accomplished through education for judges or staff or through research or pilot programs. The Modernization Fund was the outcome of that, and it was something that Senator Bill Lockyer, then-President pro Tem, and Assembly Member Phil Isenberg strongly supported. So the Modernization Fund provides funding for new judges to attend the orientation program and the Judicial College and for judges and key staff to have ongoing education. The Modernization Fund is also to be used to improve technology in a way that best serves the public. The ability to carry over funding helps courts cope with unexpected occurrences during the course of the year. Carrying over funding allows us to build the kind of infrastructure necessary to sup-

port transparency, accountability, and efficiency.

### **CCR: Has the branch achieved more stability?**

**Vickrey:** State trial court funding has allowed the branch and the courts together to manage resources when times are tough and to protect the public's access to the courts. It has provided greater flexibility for the most important resource—the judges of the state. By 1992, we had seen a 25 percent decline in the filings in the limited jurisdiction courts and a 40 percent increase in the felony filings of the superior courts. The unification of the courts allowed judges to go where they were most needed, and it allowed us to be more efficient on the administrative end. Courts across the state were allocating more resources to family law court, where they were desperately needed. Finally, unification led the leadership of our presiding judges and the Judicial Council to create greater consistency among courts, whether it's uniform filing fees or common rules of practice and procedure. Lawyers who are practicing statewide no longer feel that they have to interact with 220 different court jurisdictions in the state.

### **CCR: How has state trial court funding changed the role and functions of the Administrative Office of the Courts, and why is the AOC so large?**

**Vickrey:** The change in trial court funding—and the change in the branch's governance—required that the branch have the same resources as the other two branches of government to support its operations and a system that could be held appropriately accountable. And so it made a huge difference in the responsibilities of the AOC, which already had its historical role of supporting the operations of the Supreme Court, the Courts of Appeal, and the Judicial Council and a limited role in

judicial education. In 1992, the AOC had 265 authorized positions; today it has more than 800. Most of those staff are dedicated to providing direct services to the courts, and most of those services have allowed trial courts to reallocate their resources to important operational areas that had not been adequately funded. So while the AOC has grown in staff, if you base the size of the AOC on either the number of judges or the number of cases in the system, it is one of the smaller AOCs in the country.

Many of the AOC's new responsibilities were assumed at the request of the courts, like the legal services now provided by the AOC's Office of the General Counsel. Before state funding, the courts received their legal services from 58 county counsel offices. The presiding judges asked for an audit program that would provide local leadership with early warning signs of problems or identify opportunities to make improvements and also that would give the branch the ability to inform the executive and legislative branches on the appropriate use of its resources. Court executives requested that education be expanded to senior management in the trial courts and for some line staff. This led the Judicial Council to change the Governing Committee of the Center for Judicial Education and Research and to add staff to meet those increased needs. We've taken on other responsibilities previously handled by the counties, such as statewide risk management for workers' compensation programs. A controller's office carries out the business of the trial and appellate courts. The State Controller's Office wasn't able to assume the responsibility for what was viewed as a more complex governance structure for the judicial branch, and so the AOC took it on. Another obviously huge fundamental change came after a three-year study on courthouses recommended that responsibility for the court-

houses—design, planning, construction, and maintenance—be shifted from local governments to the state. The Legislature and the Governor placed that responsibility with the AOC, so today we have more than 200 staff dedicated to those functions. This number is substantially smaller than the Department of General Services anticipated.

And technology has changed things. Governor Wilson, and then [Gray] Davis, and now [Arnold] Schwarzenegger have all aggressively argued for a statewide system of integrated information systems for managing cases so that accurate information can be shared in real time with state partners like the Departments of Justice, Social Services, and Child Support Services; the California Highway Patrol; and local justice partners.

All decisions the branch has made have been joint decisions between the trial courts, presiding judges, court executives, and the AOC, with the final decision on policy issues made by the Judicial Council. The courts today have not only an increased level of funding but also more discretion than they have ever had in allocating their resources to implement statewide policies. For both the AOC and the local courts—especially court executives—there has been a huge learning curve. But as you attend meetings of budget working groups or Judicial Council meetings, you see a system in which people grounded in common values make a cooperative effort to make decisions that really are in the public interest. And the outcome is that we've been able to achieve trial court funding, unification, the transition of employees from county employees to employees of the local courts, the development of local labor relations processes, the facilities transfer, the change in making interpreters employees, jury management, and complex litigation. All these efforts came about through the collective



wisdom and aspirations of people throughout the courts and in 17 standing advisory committees and multiple task forces.

At the end of the day, the most telling thing to me in terms of whether things have made a difference is looking back to a 1993 survey in which less than half the public had significant trust and confidence in the courts. Today more than 60 percent of the public have trust and confidence in the court system. We still have a lot of work to do: improve service so we can win the trust and confidence of minority populations and of frustrated court users in traffic court or family courts. But I do think we have a court culture that believes in continuous improvement, and in that sense our court system is extraordinarily healthy, even as we sit here today during one of the most severe financial crises facing our state, perhaps in its history.

**CCR: Does the judicial branch need even more stability and predictability, and, if so, how will this be accomplished?**

**Vickrey:** The court system will always need greater stability in spite of all the progress that has taken place. It needs to be sustained and built on with continued, persistent efforts every year. In this era of term limits, it becomes even more important that we work with not just our legislative partners but all other segments of the public. This includes our partners in the bar who



represent clients in criminal, civil, and family law cases. We need to take into consideration all perspectives in our community—from the economically disadvantaged to the business community that needs timely adjudication of its cases. We need to continue work on redefining our checks and balances with the other two branches of government. The Legislature and the Governor have been responsive to the needs of our judicial branch during the dot-com bubble and the energy crisis, but we still had severe reductions in the judicial branch. In the most current economic crises they have again been responsive in trying to craft unique solutions that will allow us to be part of solving the state's economic problems while protecting the public's access to their courts. With that being said, we have a responsibility to present ideas to the Legislature and Governor that will ensure that residents have access to their courts, in good times and bad.

**CCR: What's an example of an idea that would redefine that relationship?**

**Vickrey:** One example is providing a constitutional protection for the base budget of the courts so that they can stay open. We have to provide meaningful access for everybody, the have-nots as well as the haves. We have to provide access both for those who speak the dominant language and those who do not. We have to provide meaningful access for those in criminal cases as guaranteed under our federal Constitution, and we have to provide timely and meaningful access for those involved in family law disputes, dependency issues for children, and probate cases. They all deserve equal and timely access more now than at any time in our state's history. We need to continue to keep a critical eye on our own system, always aspiring to do better. Our goal isn't to be comfortable; our

goal is to see that the public has access to justice and that the court system can be held directly accountable by our other two branches of government for the fair and effective administration of justice in the state.

**CCR: How will the Judicial Council ensure equalized funding for all courts given historical inequities in funding as well as significant changes in state population, especially in the Inland Empire?**

**Vickrey:** The council is trying to provide equal funding and equal access through several strategies. One of those has been to dedicate certain amounts of new funding to severely underfunded courts. The council has done that over the years, going back to about 1996. Second, the council has created a system for how we add judges. We look at workload and the types of cases that the local courts have. That's not just an aspiration of the council; it's something the Legislature requires. New positions are allocated to an area based on the greatest need, which is, in turn, based upon a council assessment. If you look at the addition of the first 100 new judges in the state, they are not going primarily to our largest counties. They are going to those counties that have experienced the greatest growth in the last two decades and that have the most severe need for new judges. The system is premised on meeting needs in every court from Alpine County to Los Angeles.

The same principles apply to our other efforts. When you look at the assessment of courthouse needs, it is based on specific criteria so that each court system in the state is treated equally. The Office of the General Counsel has been staffed to support not just some counties but every county in the state, and that's why it was funded centrally rather than taking money out of the budgets of the courts. The technology system—whether it's statewide

accounting systems or it's a state-wide case management system—is being developed to meet the needs of everyone so that we don't end up with courts divided between the haves and have-nots.

**CCR: What work remains in court funding, and how will it affect the role and functions of the Judicial Council and the AOC?**

**Vickrey:** We've probably already covered some of these things. We're well on our way to implementing some of the basics—the infrastructure to support the operations of our courts and an effective case management system. Those plans will carry us through 2013. The rehabilitation of our court facilities will take longer. We have such severe problems, and they developed over the last 40 or 50 years. More than 70 percent of our facilities have major life-safety deficiencies, 65 percent have seismic problems, 60 percent have severe impediments to adequate security, and 75 percent have access barriers. We will not fix all of those issues by 2013. We certainly made a great step with the recent \$5 billion bond. But we will need equal funding or a greater amount to provide adequate space and to rehabilitate the deficiencies in the courthouses. Our goal is still to get all of those things done by 2020.

Another goal is to have a funding stream that will support the ongoing growth and maintenance of the courthouses without requiring us to go to the state's General Fund. We need to protect ourselves from falling into the very easy trap of just managing the budget we have rather than seeing the budget as a means to an end—that is, as a tool to implement statewide policies that are designed and implemented at the local level. And first, last, and always, we need to protect the public's access to justice. 



# LOOKING *Forward*



## NEW COURTHOUSE FOR EAST CONTRA COSTA COUNTY

**A**rtist's renderings of the Richard E. Arnason Justice Center in Pittsburg, the first superior court facility to be built entirely with state funding, provided by Senate Bill 1407. A groundbreaking ceremony was held on December 12, 2008, for the seven-courtroom structure.

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[ktorre@saclink.csus.edu](mailto:ktorre@saclink.csus.edu).



# By the Numbers

**602**

Municipal court judges elevated to superior court judgeships after unification

**1**

Self-help centers before the Trial Court Funding Act of 1997

**100**

Self-help centers established since the Trial Court Funding Act of 1997

**\$79.31**

Approximate cost of the trial courts per California resident in 2007–2008

**\$1.51** BILLION

State trial court expenditures in fiscal year 1996–1997

**\$2.99** BILLION

State trial court expenditures in fiscal year 2007–2008

**116**

Assigned judges (full-time equivalent positions) allocated to the courts to fill vacancies and assist with workload in fiscal year 1996–1997

**165**

Assigned judges (full-time equivalent positions) allocated in fiscal year 2007–2008

**500**

Individual building structures housing California courts

**42%**

Percentage of Californians surveyed who had a good to very good opinion of the judiciary in 1992

**67%**

Percentage of Californians surveyed who had a good to very good opinion of the judiciary in 2005

**104**

Adult drug courts established since unification

**451**

Court facilities transferred from the counties to the state

**10.1** MILLION

Usable square feet of real estate transferred from the counties to the state

**24**

Superior courts establishing adult mental health courts since unification

**9**

Juvenile mental health courts established since unification

**15,432**

Californians per courtroom

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