Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

CENTER FOR FAMILIES, CHILDREN & THE COURTS

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COMMISSION ON
STATE MANDATES

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Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

DIANE NUNN
Director, Center for Families, Children & the Courts

April 26, 2007

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

I am writing in response to your April 12, 2007, letter to William C. Vickrey, Administrative Director of the Courts. In your letter, which relates to test claim 01-TC-29, you requested responses to the following questions:

1. Which courts has the Judicial Council identified as having resources currently available for purposes of implementing the provisions of chapter 572 of Senate Bill Number 66 (2001–2002 Reg. Sess.) (SB 66)?

2. To the extent funds have been appropriated, what amounts have been available, for each fiscal year from January 1, 2002 to the present, in courts that have not been identified by the Judicial Council as per the prior question?

3. Has the Judicial Council issued any grants to local agencies in connection with SB 66? If so, to which local agencies, in what amounts, and in which fiscal years?

The answers to your questions are as follows:

1. The Judicial Council did not identify any courts for purposes of SB 66. Prior to SB 66's enactment, the Administrative Office of the Courts (AOC), the staff agency to the Judicial Council, conducted a survey of the courts to determine which could be identified by the council as having the resources available for the purpose of implementing SB 66's

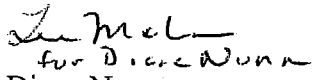
requirements. Although a number of courts responded to the survey by indicating that they were, in fact, already complying with the requirements imposed upon courts under SB 66, a careful reading of the bill and an analysis of those courts' programs revealed that they were not, in fact, able to comply in full with all of the bill's requirements without additional resources. Accordingly, it was determined at that time that no courts had the resources available to implement in full the requirements of SB 66. The implementing language in the bill was intended to identify the courts that were conducting criminal background checks at that time and to require that those courts continue with the checks. Courts that were not identified would only be required to conduct the criminal history checks if funds were appropriated for that purpose. Because the requirement to identify courts was intended to apply at that point in time—i.e., at the time that SB 66 was enacted—the Judicial Council has not revisited the AOC's initial survey to determine whether any court(s) may now be identified as having resources available for full compliance with SB 66. Nonetheless, we note that some courts are, of their own accord, treating SB 66 as though it does apply, and complying with its requirements accordingly.[1]

2. To date, no funds have been appropriated or made available to courts for purposes of SB 66 and, to our knowledge; neither the Governor nor the Legislature has proposed any such appropriations.

3. To date, the Judicial Council has not issued any grants pursuant to or in connection with the provisions of SB 66.

I hope this answers your questions and is helpful in your consideration of this test claim. If you have further questions, please do not hesitate to contact me.

Sincerely,



Diane Nunn
Director, Center for Families, Children & the Courts

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[1] Also, please note that the AOC's reading of the implementation language in SB 66 is that it applies only to *courts*, not other entities. That language, which you cite in your letter, states that SB 66 "shall be implemented in those *courts* identified by the Judicial Council as having resources currently available for these purposes." (Italics added.) The courts were given the duty to conduct the criminal history check in cases filed under the Domestic Violence Prevention Act because those cases involve two private parties and the district attorneys are not involved in those cases. The district attorneys were given the duty to conduct the criminal history check in cases filed under the Penal Code because they are responsible for prosecuting the criminal cases. To the extent SB 66 imposes requirements on the district attorneys, those requirements are not subject to the implementation language, and would therefore appear to be effective regardless of whether the Judicial Council has identified any courts as being able to implement SB 66 in full.

DN/CF/pr

cc: William C. Vickrey, Administrative Director of the Courts
Ronald G. Overholt, AOC Chief Deputy Director
Mary M. Roberts, Office of the General Counsel
Stephen Nash, Director, AOC Finance Division